



HOUSE OF LORDS

Select Committee on Adoption Legislation

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2nd Report of Session 2012–13

**Adoption:  
Post-Legislative  
Scrutiny**

Report

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Ordered to be printed 26 February 2013 and published 6 March 2013

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Published by the Authority of the House of Lords

*London* : The Stationery Office Limited  
£14.50

HL Paper 127

### *The Select Committee on Adoption Legislation*

The Select Committee on Adoption Legislation was appointed by the House of Lords on 29 May 2012 with the orders of reference “to consider the statute law about adoption.”

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References in footnotes to the Report are as follows:

Q refers to a question in oral evidence

Witness names without a question reference refer to written evidence

## SUMMARY

We were established in May 2012 to provide post-legislative scrutiny of the existing statute law on adoption. Our work has taken place against a backdrop of increased public and media focus on adoption, driven in part by the Government's commitment to reforming adoption services. In light of Government proposals for reform, and the introduction of the Children and Families Bill in February 2013, we have not restricted ourselves solely to scrutiny of the current statute law. We have, where appropriate, given consideration to the issues raised by the Government's proposals. In particular, we were invited to provide pre-legislative scrutiny of two draft clauses of the Bill published in November 2012, on which we reported in December 2012.

None of our witnesses called for wide-ranging changes to the legislation. Instead, there was over-whelming evidence that the big issues of concern—delay in the adoption system and the shortage of adopters—were the result of failures in practice. Legislation is clearly only part of the picture. We have therefore given attention to how practice, as well as legislation, might be improved to transform the lives of children for the better.

The Government wishes to increase the number of children being adopted; we agree that there is the potential for more children to benefit from adoption which is in many ways unique in its benefits. Adoption is, however, only one of several solutions for providing vulnerable children with the love, stability and support they need. Long-term fostering, friends and family care, and special guardianship also play a significant role in meeting the needs of many of the children who cannot be cared for by their birth parents, and for whom adoption may not be appropriate. We are concerned that the Government's focus on adoption risks disadvantaging those children in care for whom adoption is not suitable. Improving the outcomes for all children in care should be the priority; all routes to permanence merit equal attention and investment.

We also believe that early intensive work with birth parents where there is capacity to change has the potential to enable children to live safely within their birth families and to reduce the number of children in care. We urge the Government not to undermine the potential benefit of preventative programmes by focusing on adoption at the expense of early intervention.

Children adopted from local authority care have a range of needs due to their early life experiences, often of abuse or neglect, which are not resolved simply by being adopted. We are concerned that the provision of post-adoption support is often variable and sometimes inadequate. We believe such support is essential to ensuring the stability of adoptive placements, and to increasing the number of adopters coming forward. We therefore recommend a statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support.

The shortage of adopters is a recurrent theme throughout our evidence. The Government is seeking to address this in the Children and Families Bill by giving the Secretary of State the power to direct local authorities to outsource adopter recruitment. We share the Government's concern about the fragmentation of

adopter recruitment and low levels of recruitment by some councils. We note, however, that some smaller local authorities, through joint working with neighbours and integrated management, have been able to improve their adoption services, including recruitment of adopters and speed of matching children with adoptive families. We recommend that the Government should encourage and facilitate further joint working. Furthermore, we strongly encourage the Government to allow sufficient time for the sector to develop viable and achievable measures to address the shortage of adopters before taking the steps envisaged in Clause 3 of the Bill.

In undertaking our work, we spoke with children in care and children who had been adopted. We were left with the strong impression that children who had experience of care and adoption proceedings did not always feel that their views had been heard. We find this worrying. We recommend measures to improve the performance of Independent Reviewing Officers and guardians appointed by the Children and Family Court Advisory and Support Service, in the hope that these steps will address some of the concerns voiced to us by children.

We welcome the Government's focus on improving adoption services, but we are concerned that insufficient work is currently done to monitor outcomes, rather than processes. Some adoptions break down and those children re-enter the care system. More needs to be done to measure rates of, and reasons for, adoption breakdown. Without robust research and data we cannot be confident that the investment in improving adoption will actually transform children's lives for the better.

# Adoption: Post-Legislative Scrutiny

## CHAPTER 1: INTRODUCTION

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1. On 21 May 2012 the House of Lords agreed to establish a committee to ‘consider the statute law on adoption and to make recommendations’, with a deadline to report by the end of February 2013.<sup>1</sup> This is the first instance of a House of Lords select committee being established specifically to undertake post-legislative scrutiny. The main pieces of legislation affecting adoption are the Adoption and Children Act 2002 and the Children and Adoption Act 2006.
2. Over the course of our inquiry we received 85 pieces of written evidence and took oral evidence from 52 individual witnesses over 14 sessions. We also held a private meeting with children, young people and parents with experience of adoption, and separately with young people currently in care. These private meetings were organised by the Office of the Children’s Rights Director. We are grateful to everyone who took part.
3. We focused our inquiry principally on England. Although we sought and have received evidence regarding adoption in Wales, adoption is a devolved matter under the Government of Wales Act 2006, and the Welsh Assembly Government intends to legislate on adoption services in the Social Services (Wales) Bill.<sup>2</sup> Scotland and Northern Ireland have separate systems and are not considered in this report.

### Government policy on adoption

4. As well as considering the existing legislation underlying the adoption process we have taken considerable evidence on the Government’s recent announcements in this policy area. Adoption has received increased public attention over the last 18 months, with much of the renewed focus being driven by the Government’s commitment to improving adoption services, both in terms of numbers of children being adopted, and the speed with which new families are to be found for children for whom adoption is the plan. It is useful to set out Government action over the last 18 months.
5. The Government appointed Sir Martin Narey as Ministerial Adviser on Adoption in July 2011, and this was followed by the appointment of an expert working group on adoption in December 2011. The group included, amongst others, representatives of the Consortium of Voluntary Adoption Agencies (CVAA), the British Association for Adoption and Fostering (BAAF), the voluntary adoption agencies Coram and Adoption Matters North West, the National Society for the Prevention of Cruelty to Children (NSPCC), the Association of Directors of Children’s Services (ADCS), and Professor Julie Selwyn, all of whom are represented in our list of witnesses.

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<sup>1</sup> HL Deb 21 May 2012 col 636 & HL Deb 29 May 2012 col 1082

<sup>2</sup> We have taken note of the report on adoption by the Children and Young People Committee in the National Assembly for Wales: *Inquiry into Adoption*, published November 2013. The report can be found at: <http://www.senedd.assemblywales.org/documents/s11356/Adoption%20Report%20-20November%202012.pdf>

6. Following the report of the expert working group in February 2012, the Government published *An Action Plan for Adoption: Tackling Delay* in March 2012, in which they made clear their commitment to tackling delay in the adoption system “so that more children benefit from adoption and more rapidly.”<sup>3</sup> The *Action Plan* set out the Government’s intention to legislate to reduce the number of adoptions delayed by the search for a perfect or near-perfect ethnic match between an adoptive child and prospective adopters; to require swifter use of the Adoption Register; to encourage all local authorities to place children with their potential adopters in anticipation of the court’s placement order; to speed up the adopter assessment process and to introduce a fast-track process for second-time adopters and foster carers seeking to adopt a child already in their care; to develop a national gateway to adoption as a source of advice and information for those considering adoption; and to measure improvements in tackling delay across the system through the new adoption performance scorecard.
7. Over the course of our inquiry the Government launched consultations on a wide range of issues relating to adoption, including the placement of siblings, arrangements for contact with birth family members post-adoption, and the faster approval processes for prospective adopters.
8. In May 2012 the Government published the first set of data from the adoption scorecards, which provided three-year rolling averages for all local authorities across three key performance indicators, each focusing on timeliness in the adoption system.<sup>4</sup> In September 2012 the Government announced an additional £8 million for local authorities in the current financial year to speed up adoptions. In December 2012 plans were published to provide greater support to adoptive parents, and to give prospective adopters a greater say in the matching process. In January 2013 the Government published a package of reforms designed radically to improve adopter recruitment; in order to help secure adoption reform an Adoption Reform Grant worth £150 million will be given to local authorities in the next financial year.
9. The Government published draft legislation relating to adoption in November 2012. The two draft clauses were designed to remove delays caused by the search for a perfect or near-perfect ethnic match, and to create a new duty on local authorities to consider a ‘fostering for adoption’ placement where appropriate.<sup>5</sup> The draft legislation was the subject of our first report, *Adoption: Pre-legislative Scrutiny*<sup>6</sup>, published on 19 December 2012. On 4 February the Government introduced into Parliament the Children and Families Bill which contains provisions on ethnic matching; fostering for adoption, adopter recruitment; adoption support services; the adoption register, and post-adoption contact.

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<sup>3</sup> *An Action Plan for Adoption: Tackling Delay*, Department for Education, March 2012, ministerial foreword

<sup>4</sup> The three indicators are: the average time taken from entering care to being placed with an adoptive family; the average time taken to match a child to an adoptive family, once a court has formally decided that a child should be placed for adoption; and the proportion of children in each local authority waiting longer than 21 months for adoption. The scorecards are considered in more detail in Chapter 6.

<sup>5</sup> Fostering for adoption, as proposed by the Government in draft legislation published on 7 November 2012, refers to the practice of placing a child with foster carers who are dually approved as prospective adopters and have been matched with that child, before the Court has made a placement order in respect of that child, but after the local authority has decided that adoption is in the child’s best interests.

<sup>6</sup> 1<sup>st</sup> Report of Session 2012–13, HL Paper 94. The report can be found at:  
<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldadopt/94/94.pdf>

### The wider policy context

10. In addition to the Government-led activity there have been two very significant reviews with considerable impact on the focus of our report. The first was the Family Justice Review, established in March 2010 and jointly sponsored by the Ministry of Justice, the Department for Education and the Government of Wales. The review was chaired by David Norgrove and was set up in response to increasing concerns about delay in the family court system. The review published its final report in March 2011. The Government accepted the majority of the recommendations in full, one of which—to remove from adoption panels the responsibility for making a recommendation about whether adoption was in a child’s best interests—led to the publication of the Adoption Agencies (Panels and Consequential Amendments) Regulations 2012. The Regulations were laid before Parliament under the negative procedure and our Chairman secured a debate on them in the House of Lords on 25 July.<sup>7</sup> They came into force on 1 September. In addition to the Government’s response to the Family Justice Review, the judiciary has published proposals for the modernisation of family justice, under the guidance of Mr Justice Ryder.<sup>8</sup>
11. The second significant report was the review of child protection in England by Professor Eileen Munro, which reported in May 2011.<sup>9</sup> This review was set up at the request of the Secretary of State for Education with a view to establishing how professionals can make the best judgments to protect vulnerable children. The findings regarding social work culture and practice have been welcomed by the Government in their response in July 2011. The proposed reforms of the social work profession following the review by Professor Munro formed part of the background to our inquiry.

### Post-Legislative scrutiny—a note on the process

12. In light of the succession of Government proposals since March 2012 and the introduction of the Children and Families Bill on 4 February 2013, we have not restricted ourselves to the scrutiny of the current statute law on adoption; we have extended our consideration to the issues raised by witnesses in relation to the Government’s proposals. We have also found that other statutes, which are not concerned with adoption, such as the Children Act 1989, have a very significant bearing on delays in adoption, and we have considered them, where appropriate. We hope our contribution is more valuable as a result.
13. We have been struck by the number of submissions which suggested that the current legislative framework is largely adequate. None of our witnesses called for wide-ranging changes to the legislation, although one significant exception is discussed in detail in our chapter on post-adoption support (Chapter 7). Instead, there was overwhelming evidence that the big issues of concern—delay in the adoption system, and the shortage of adopters—were

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<sup>7</sup> HL Deb 25 July 2012 GC col 343–358

<sup>8</sup> Judicial Proposals for the Modernisation of Family Justice, Mr Justice Ryder, July 2012. The report can be found at:

[http://www.judiciary.gov.uk/Resources/JCO/Documents/Reports/ryderj\\_recommendations\\_final.pdf](http://www.judiciary.gov.uk/Resources/JCO/Documents/Reports/ryderj_recommendations_final.pdf)

<sup>9</sup> The Munro Review of Child Protection: Final report *A child-centred system*, CM 8062, May 2011. The report can be found at:

[http://media.education.gov.uk/assets/files/pdf/m/8875\\_dfe\\_munro\\_report\\_tagged.pdf](http://media.education.gov.uk/assets/files/pdf/m/8875_dfe_munro_report_tagged.pdf)

the result of failures in practice. Our consideration of these issues has focused on how to achieve better outcomes for the children and families affected; where relevant we have commented on the legislation, but more frequently we have made recommendations concerning practice. One conclusion we draw from this is that legislation is only part of the picture in achieving better outcomes for children; and there should be more emphasis on practice.

14. We welcome being able to make a contribution on a matter that is of concern to many, and high on the political agenda. We hope that our report will feed into the on-going work of reforming the adoption system.

## CHAPTER 2: ADOPTION IN CONTEXT

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15. The legal history of adoption can be traced back to the Adoption of Children Act 1926, which replaced the widespread practice of unregulated *de facto* adoption with a legal route for the permanent and secure transfer of orphans and illegitimate children to new parents. Before the Adoption and Children Act 2002 the most recent statute on adoption was the Adoption Act 1976, which was not fully implemented until 1988. By then, the model of adoption which that legislation was predicated upon had largely ceased to exist.

### Changes in societal attitudes and the effects on adoption

16. From the peak of nearly 25,000 in 1968, the annual number of adoptions has fallen steadily, and only 3,450 children were adopted in 2011–12. This decline in numbers reflects the changing purpose of adoption over recent decades. During the peak years of adoption, 51% of all adoptions were of babies, and 92% of adoptions were of ‘illegitimate’ children.<sup>10</sup> Changes in societal attitudes, coupled with the improved availability of contraception and the legislation on abortion<sup>11</sup>, along with increases in financial support for single mothers, have reduced the number of children being given up for adoption. This means that very few children under 12 months are adopted—only 70 babies were adopted in 2011–12.<sup>12</sup> There is, however, the potential for many more babies to be adopted: at 31 March 2012 there were 3,670 looked-after children under 12 months for whom a local authority had decided that adoption would meet their best interests; when and if a placement order is secured, these children may be placed for adoption.<sup>13</sup>
17. Today most children adopted in England are adopted from local authority care. The majority of children taken into care are there due to concerns about abuse or neglect (see Box 1: Children in care & leaving care). For those children who are not able to return home to their birth families adoption provides a route out of the care system.

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<sup>10</sup> Professor N V Lowe, Cardiff Law School, written evidence

<sup>11</sup> The Abortion Act 1967 came into force on 27 April 1968. Nearly 190,000 abortions took place in England and Wales in 2011 compared with 22,332 in 1968  
<https://www.wp.dh.gov.uk/transparency/files/2012/05/Commentary1.pdf>

<sup>12</sup> Statistical First Release, *Children looked after in England (including adoption and care leavers) year ending 31 March 2012*, Department for Education, 25 September 2012:  
<http://www.education.gov.uk/rsgateway/DB/SFR/s001084/sfr20-2012v3.pdf>

<sup>13</sup> HL Deb, 8 January 2013, WA3 [HL4259]

**BOX 1****Children in care and leaving care<sup>14</sup>**

<u>Children in care at 31 March 2012:</u>	
Total	67,050
By placement type:	
Foster placement	50,260 (75%)
Placed for adoption	2,680 (4%)
Placement with parents	3,600 (5%)
Other placement in the community	2,340 (3%)
Secure units, children's homes, hostels	5,930 (9%)
Other residential settings	1,020 (2%)
Residential schools	960 (1%)
Other placement	120 (–)
<u>By age:</u>	
Under 1	4,190 (6%)
1 to 4	12,430 (19%)
5 to 9	12,700 (19%)
10 to 15	24,150 (36%)
16 <u>and</u> over	13,580 (20%)
<u>Children entering care April 2011–March 2012</u>	
Total	28,220
Category of need:	
Abuse or neglect	15,670 (56%)
Child's disability	840 (3%)
Parents illness or disability	1,070 (4%)
Family in acute stress	2,850 (10%)
Family dysfunction	5,010 (18%)
Socially unacceptable behaviour	830 (3%)
Low income	80 (–)
Absent parenting	1,880 (7%)
<u>Children leaving care April 2011–March 2012</u>	
Total	27,350
Reason for leaving:	
Adopted	3,450 (13%)
Died	40 (–)
Care taken by another local authority	190 (1%)
Returned home to parents or relatives	10,160 (37%)
Residence Order granted	1,290 (5%)
Special Guardianship order made	2,130 (8%)
Moved into independent living	3,720 (14%)
Transferred to residential social care funded by adult social services	470 (2%)
Sentenced to custody	420 (2%)
Care ceased for any other reason	5,500 (20%)
<i>All figures relate to England only.</i>	

<sup>14</sup> All figures in Box 1 are taken from the Statistical First Release, *Children looked after in England (including adoption and care leavers)* year ending 31 March 2012, Department for Education, 25 September 2012: <http://www.education.gov.uk/rsgateway/DB/SFR/s001084/sfr20-2012v3.pdf>

**BOX 2****Adoption<sup>15</sup>**

<u>Children adopted April 2011–March 2012</u>	
Total	3,450
By age:	
Under 1	70 (2%)
1 to 4	2,550 (74%)
5 to 9	740 (21%)
10 to 15	80 (2%)
16 and over	10 (–)
Category of need:	
Abuse or neglect	2,490 (72%)
Child's disability	10 (–)
Parents illness or disability	130 (4%)
Family in acute stress	220 (6%)
Family dysfunction	460 (13%)
Socially unacceptable behaviour	20 (–)
Low income	10 (–)
Absent parenting	110 (3%)
Average age at adoption	3 years and 8 months
Average time between entry into care and decision that child should be placed for adoption	11 months
Average time between decision that child should be placed for adoption and matching of child and adopters	10 months
Average time between date of matching and date placed for adoption	1 month
Total average time between entry into care and adoption	2 years and 7 months
<i>All figures relate to England only.</i>	

18. This change has had a number of significant effects, which the Adoption and Children Act 2002 sought to address. First, most children are now adopted at an older age than was previously the case. The average age at adoption is now 3 years and 8 months (see Box 2: Adoption). As a result an adopted child may have memories of their birth family; they may also have ongoing relationships with siblings or other family members. Issues of contact with the birth family often need to be addressed and managed. We discuss, in Chapter 8, the provisions for post-adoption contact in the Adoption and Children Act 2002.
19. Secondly, many more adoptions are contested. Birth families are often unwilling to give up their children, both to the care system and then,

<sup>15</sup> All figures in Box 2 are taken from the Statistical First Release, *Children looked after in England (including adoption and care leavers)* year ending 31 March 2012, Department for Education, 25 September 2012: <http://www.education.gov.uk/rsgateway/DB/SFR/s001084/sfr20–2012v3.pdf>

ultimately, to adoption. Social workers and the courts have to apply the law to resolve these issues in the best interests of the child.

20. Thirdly, the contested nature of many care cases and adoptions means that children can be forced to suffer both delay and instability. Whilst court cases and legal issues are progressing, children can find themselves moved between care homes, foster parents and other forms of temporary care. This instability can compound and intensify attachment and behavioural issues which the children may already face as a result of exposure to harm in their early life. We discuss the impact of such delay and instability in Chapter 4, and the case for post-adoption support Chapter 7.

### Adoption and permanence

21. In the *Action Plan for Adoption* the Government stated that “in many cases adoption is the best option—particularly for younger children, but also for some older children. Adoption gives vulnerable children, including many with complex needs and a history of ill-treatment, the greatest possible stability, in a permanent home with a permanent family. It is, in every sense of the word, for good.”<sup>16</sup>
22. Adoption is intended to bring permanence and stability to the lives of children who may have experienced trauma and instability in early life. Adoption is in many ways unique. It confers a new legal status on the child who is “to be treated in law as if born as the child of the adopters.”<sup>17</sup> Parental responsibility for the child becomes the sole preserve of the adopters, and the parental responsibility of the birth family comes to an end. A new family is therefore created, with permanent legal relationships. This life-long transformative change sets adoption apart from other routes out of the care system.
23. The Government acknowledged in the *Action Plan* that adoptions do break down in some cases but that they currently had “too little data and evidence about it.”<sup>18</sup> They have commissioned the University of Bristol to undertake further research into the rate and reasons for adoption breakdown. We comment on the absence of relevant data in paragraphs 200 to 206.
24. **We recognise the unique nature of adoption and its potential to enhance the lives of children by providing a life-long, permanent route out of the care system. We agree with the Government that there is scope to increase the number of children benefitting from adoption.**

### Other routes to permanence

25. Adoption is a route out of care for a relatively small proportion of children. This is principally a reflection of the age profile of the care population in England: 75% are over 5 years of age; 56% are over the age of ten.<sup>19</sup> For

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<sup>16</sup> *An Action Plan for Adoption: Tackling Delay*, Department for Education, March 2012, paragraph 4.

<sup>17</sup> Adoption and Children Act 2002, section 67 (1)

<sup>18</sup> *An Action Plan for Adoption: Tackling Delay*, Department for Education, March 2012, paragraph 34.

<sup>19</sup> Statistical First Release, *Children looked after in England (including adoption and care leavers) year ending 31 March 2012*, Department for Education, 25 September 2012:

<http://www.education.gov.uk/rsgateway/DB/SFR/s001084/sfr20-2012v3.pdf>

many of this group it may not be appropriate for the link with birth parents to be severed, or for them to be integrated fully and legally into a new family.

26. The *Action Plan for Adoption* recognised that for many children—in particular older children—long-term fostering was the best care option. This can sometimes be with wider family members, or family friends. Fostering does not involve the creation of a new legal family; parental responsibility is shared between the birth parents and the local authority.
27. The Adoption and Children Act 2002 created Special Guardianship Orders (SGOs), which provide another route to permanence. Special guardians share parental responsibility with the birth parents and have responsibility for day to day decisions about caring for a child or young person. Unlike adoption, the basic legal link with the birth parents is retained. They remain legally the child’s parents, though their ability to exercise their parental responsibility is limited. This provision was intended to cater for older children who may wish to retain links to their birth family, and who were therefore not suitable for adoption. Since their introduction in 2002 the number of SGOs granted has grown each year; there were 2,130 Special Guardianship Orders granted in England in the year to March 2012.<sup>20</sup>
28. It is permanence that is important, rather than the particular ‘type’ of permanence that is chosen. Professor June Thoburn, from the Centre for Research on the Child and Family at the University of East Anglia, suggested that “for a majority of children and some prospective parents it is ‘a sense of permanence’ and being confident of being ‘a family for life’ that is the key to success rather than the particular legal order.”<sup>21</sup>
29. Concern was expressed by several witnesses that the Government’s focus on adoption risked neglecting permanency solutions for those children for whom adoption was not suitable.<sup>22</sup> The Who Cares? Trust told us:
 

“... the Government’s current focus creates a grave risk that, in a drive to increase the number of children who are adopted, policy making for children in care in England is becoming the poor relation. The logical consequence is that local services will disproportionately divert their focus and resources towards a minority of the children in their care, leaving others at risk of continued poor outcomes.”<sup>23</sup>
30. Nagalro, the professional association for Children’s Guardians, Family Court Advisers and Independent Social Workers, echoed the concern over the application of resources:
 

“Over-emphasis on adoption risks directing resources away from the whole range of looked-after children including those for whom other permanence options are preferable.”<sup>24</sup>

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<sup>20</sup> The Department of Education has commissioned the University of York in collaboration with the British Association for Adoption and Fostering to conduct a study of the use of Special Guardianship Orders; the final report is expected in June 2014.

<sup>21</sup> Professor June Thoburn, written evidence

<sup>22</sup> Written evidence from: Alliance for Child-Centred Care, BAAF, Family Rights Group, Kinship Care Alliance, Nagalro, TACT, The Who Cares? Trust

<sup>23</sup> The Who Cares? Trust, written evidence

<sup>24</sup> Nagalro, written evidence

31. There were calls for a more wide-ranging review of care and permanency options, rather than singling out adoption for reform. TACT, the fostering and adoption charity and voluntary agency, argued that:
- “The care system should be reviewed as a whole so a holistic approach to ensuring the best and appropriate outcomes for those children who enter care should be preferred...a piecemeal approach to reform is rarely effective.”<sup>25</sup>
32. Action for Children called for “a system which has at its heart a drive to find the right placement for each individual child, rather than creating a false hierarchy of care—where adoption is interpreted as being the preferred care option.”<sup>26</sup>
33. While adoption is valuable in transforming the lives of those children who benefit from it, it can only provide a solution to a small proportion of children in the care system. Long-term fostering, special guardianship and the placement with friends or family, referred to as kinship care, are also worthy of attention and support. In focusing exclusively on adoption, there is a real risk of overlooking the needs of the vast majority of children in care for whom adoption is not appropriate. The outcomes for all children in care must be the focus of concern and investment.
34. **Adoption is only one solution for providing children in care with the love, stability and support that they need. Long-term fostering, kinship care and special guardianship play a significant role in meeting the needs of many of the children who cannot be cared for by their birth parents. These permanency options merit equal attention and appropriate investment, both by Government and by agencies working at the national and local level. Improving the outcomes for all looked-after children should be the objective.**

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<sup>25</sup> TACT, written evidence

<sup>26</sup> Action for Children, written evidence

### CHAPTER 3: THE RIGHTS OF CHILDREN AND FAMILIES

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35. One of the most significant changes contained within the Adoption and Children Act 2002 was to bring the law on adoption into line with the Children Act 1989 by making the child's welfare the paramount,<sup>27</sup> rather than just the first, consideration when making adoption decisions.<sup>28</sup> This change to the law reflects the United Kingdom's international obligations under the United Nations Convention on the Rights of the Child 1989 which includes, in Article 21, specific provision as to the paramountcy of the child's welfare.<sup>29</sup>
36. English law, however, begins from the premise that children should, whenever possible, be raised within their families of birth. Under section 17 of the Children Act 1989 local authorities are under a duty to "safeguard and promote the welfare of children within their area who are in need; and so far as is consistent with that duty, to promote the upbringing of such children by their families."<sup>30</sup> District Judge Nicholas Crichton put it more succinctly: "Children do belong in [birth] families, if we can achieve that for them."<sup>31</sup> We agree with this sentiment.
37. The importance of keeping birth families together wherever possible is enshrined in Article 9 of the United Nations Convention on the Rights of the Child<sup>32</sup>, as well as in Article 8 of the European Convention on Human Rights (ECHR), which states: "Everyone has the right to respect for his private and family life, his home and his correspondence."
38. The rights conferred under Article 8 are not, however, without limit. Children have a right to be safe; to live their lives free from neglect and abuse. Under Article 3 of the ECHR, the State has a clear duty to ensure that no child is "subjected to torture or to inhuman or degrading treatment or punishment." The European Court of Human Rights has held that this includes an obligation to remove children from situations of known risk where appropriate. Furthermore, once removed from immediate danger, children cannot be expected to wait indefinitely for their parents to address successfully their harmful behaviour. When children cannot safely be returned to their birth parents and are in need of permanent alternative care outside of the family, it is recognised by the courts that adoption constitutes the most serious interference with the birth parents' right to respect for their family life.<sup>33</sup> The decision that it is in the child's best interests to be placed for adoption therefore merits the most careful scrutiny. A fair balance will

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<sup>27</sup> Children Act 1989, section 1

<sup>28</sup> The previous welfare test in adoption law had been contained within the Adoption Act 1976, section 6.

<sup>29</sup> It is notable that this differs from Article 3 of the UNCRC where the child's welfare, more generally, is made a 'primary consideration'.

<sup>30</sup> Children Act 1989, section 17 (1)

<sup>31</sup> Q 697

<sup>32</sup> Article 9 of the UNCRC states that: "States Parties shall ensure that a child shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine, in accordance with applicable law and procedures, that such separation is necessary for the best interests of the child. Such determination may be necessary in a particular case such as one involving abuse or neglect of the child by the parents, or one where the parents are living separately and a decision must be made as to the child's place of residence".

<sup>33</sup> See, for example, *Re P (a child)* [2008] EWCA Civ 535, where Wall LJ notes that "adoption without parental consent is an extreme—indeed the most extreme—interference with family life."

need to be drawn between the rights and interests of the birth parents in maintaining their existing family life on the one hand and the conflicting rights and interests of the child in favour of adoption on the other.

39. This required balancing of interests is secured in the Adoption and Children Act 2002 by two key provisions. First, the welfare checklist enshrined in section 1(4) of the legislation gives specific consideration to the importance of the child's relationship with his or her birth family. Thus, whenever a court or adoption agency comes to a decision relating to the adoption of a child it must have regard, amongst other matters, to the likely effect on the child (throughout his life) of having ceased to be a member of the original family;<sup>34</sup> and the relationship which the child has with relatives, including the likelihood of any such relationship continuing and the value to the child of its so doing, and the wishes and feelings of the child's relatives.<sup>35</sup> Moreover, a child's adoption can only proceed in the absence of parental consent,<sup>36</sup> if the court is satisfied, in accordance with section 52(1) of the Adoption and Children Act 2002, that the parent or guardian cannot be found or is incapable of giving consent, or the welfare of the child requires parental consent to be dispensed with.
40. **We strongly endorse the importance accorded to the right of a child to be raised within his or her family of birth whenever possible. This right is similarly enjoyed by the birth parents. However, the right of the birth parents must not be secured at the expense of the child's safety, health and development. The welfare of the child is, and should remain, the focus of concern.**

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<sup>34</sup> Adoption and Children Act 2002, section 1(4)(c)

<sup>35</sup> Adoption and Children Act 2002, section 1(4)(f)

<sup>36</sup> Only the consent of a parent holding parental responsibility is required: see Adoption and Children Act 2002, section 52(6)

## CHAPTER 4: SPEEDING UP ADOPTION FOR THE BENEFIT OF THE CHILD

41. The Government's *Action Plan for Adoption* said that “delays in the adoption system cause lasting harm for vulnerable children, and may rob them of their best chance of the love and stability of a new family.”<sup>37</sup> Delay in adoption services was one of the key concerns emerging from the evidence we received. This chapter considers the impact of delay on children, and the sources of delay in a child's journey from being removed from their birth family to moving in with an adoptive family.

### BOX 3

#### How the adoption process works

The journey from social services receiving notification of potential harm to a child to an adoption order and a new life with an adoptive family is a long and complicated one. On average, a period of two years and seven months elapses between a child being taken into care and being placed with an adoptive family.<sup>38</sup> A number of different organisations are involved, including the local authority, the courts, the Children and Family Court Advisory and Support Service (CAFCASS) and, sometimes, voluntary adoption agencies.

Having initiated proceedings to take a child into care, the local authority will produce a care plan. An interim care order is usually secured first; this places the child in care on a temporary basis, whilst the family is assessed and until the court can make a final decision about what is best for the child. A CAFCASS guardian is appointed to represent the child in any court proceedings.

By the time a final care order is secured, the local authority should already have considered a future plan for the child, which sets out the best means of achieving ‘permanence’, via a long-term, stable placement. If adoption is to be the preferred route for a child, a placement order is usually secured soon after the care order is granted. A placement order allows the local authority to place a child with a potential adoptive family; it also allows the local authority to conduct a search for such a family outside the potentially limited stock of adopters within its own administrative boundary.

The process of looking for an adoptive family is usually known as ‘matching’. When a potential match is identified, the local authority must convene an adoption panel, which recommends whether the match should proceed. The ‘agency decision-maker’—a designated person within the local authority—makes the ultimate decision as to whether to approve the placement.

Once placed with an adoptive family, it is up to the adopters to decide whether to proceed with an adoption order. This is the final step in the process, which severs existing links with the birth family and creates a new family. The adopters must wait at least 10 weeks, post placement, before applying for an adoption order.

<sup>37</sup> *An Action Plan for Adoption: Tackling Delay*, Department for Education, March 2012, paragraph 10

<sup>38</sup> See Box 2: Adoption (p.13)

### Impact of delay

42. The reason for the concern over delay in getting children into adoptive placements is the “unequivocal evidence about the importance of early relationships”.<sup>39</sup> The effects of emotional abuse and neglect are understood to be cumulative, pervasive and far-reaching. These effects can be particularly severe in very young children, because it can prevent them from developing the ability to form an attachment with an adult care giver, to trust others, and to develop a sense of self-worth.<sup>40</sup>
43. This disruption of early relationships in infancy has a significant effect on a child’s later development, with increased vulnerability to a range of psychological, emotional and physical health problems throughout the child’s lifespan. Recent research has shown that both structural and functional abnormalities are detected in the brains of children who have experienced neglect, and this is thought to be an adaptation in response to the extreme stress of maltreatment, which enables the child to cope to some degree with the parenting environment.<sup>41</sup>
44. However, there is evidence that some of the effects of neglect can be modified if the child’s care-taking environment improves.<sup>42</sup> The NSPCC supported that finding, saying that “a maltreated child can make a remarkable and really rapid recovery, if they do get the right care.”<sup>43</sup>
45. The damage that is done to a child’s development through early mistreatment or neglect can be exacerbated further by frequent moves between temporary care placements. We referred to the risk of harm caused by moving a child from one foster placement to another in our earlier report *Adoption: Pre-Legislative Scrutiny*<sup>44</sup>, with one study finding that “instability in care often leads to a downward spiral: worsening emotional and behavioural difficulties, further instability, poor educational results, unemployment and a lifetime of poverty.”<sup>45</sup> Barnardo’s underlined this point by arguing that “stability needs to be seen as a safeguarding issue.”<sup>46</sup> The importance of timeliness in decision-making, and of respecting the child’s need for stability and permanence, especially in the very early years of a child’s life, were raised again and again by witnesses<sup>47</sup>.
46. **In light of the latest research about the impact of abuse and neglect on a child’s physical, emotional, intellectual development and wellbeing, it is imperative to enable all children for whom adoption is the plan to join their new families as soon as possible. We note especially the very significant and sometimes life-long impact which abuse and neglect**

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<sup>39</sup> Roger Bullock, written evidence

<sup>40</sup> *Safeguarding Children Across Services – Messages from Research*, ed. Carolyn Davies and Harriet Ward, published by Jessica Kingsley, 2012, pp29–31:  
<https://www.education.gov.uk/publications/eOrderingDownload/DFE-RR164.pdf>

<sup>41</sup> *ibid.*

<sup>42</sup> *ibid.*

<sup>43</sup> Q 838

<sup>44</sup> 1<sup>st</sup> Report of Session 2012–13, HL Paper 94. The report can be found at:  
<http://www.publications.parliament.uk/pa/ld201213/ldselect/ldadopt/94/94.pdf>

<sup>45</sup> Social work assessment of children in need: what do we know? Messages from research, Danielle Turney, Dendy Platt, Julie Selwyn and Elaine Farmer, March 2011, ref DFE-RBX-10–08, p. 3

<sup>46</sup> Barnardo’s, written evidence

<sup>47</sup> After Adoption, Association of Directors of Children’s Services (ADCS), Coram, NSPCC

**has on the very young. We recommend that Directors of Children’s Services should ensure that social workers in safeguarding and adoption teams are kept aware of relevant research findings as part of their continuing professional development.**

47. **We commend the Government’s aim to reduce delay in placing children with their new adoptive families and to minimise the risk of harm caused by moving children between foster placements.**

### **Delays caused by care proceedings**

48. The length of care proceedings was cited by many of our witnesses as a significant source of delay in adoption.<sup>48</sup> The Family Justice Review found that care proceedings took on average over 60 weeks, “an age in the life of a child.”<sup>49</sup> The latest judicial statistics for September to December 2012 show an average of 47.7 weeks.<sup>50</sup> This is a marked improvement but still constitutes a significant delay, especially since the use of averages conceals the fact that in some cases proceedings will take much longer, as our evidence indicated.<sup>51</sup>
49. The judiciary, while accepting the need for reform, pointed to the steep increase in the number of care applications made since the death of baby Peter Connelly: from 20,000 per year in 2008 to 30,000 in 2012.<sup>52</sup> Additional resources had been allocated to the Family Division to deal with the rise in applications; Mr Justice Ryder told us 8,000 additional judicial sitting days had been scheduled.<sup>53</sup>
50. The findings of the Family Justice Review were unequivocal about the current system: “a system that is not a system, characterised by mutual distrust and a lack of leadership...The consequence for children is unconscionable delay.”<sup>54</sup> The evidence we received supports those conclusions—mutual distrust between local authorities and the courts, the poor quality of reports submitted by social workers, and the consequent over-reliance by the courts on expert witnesses; were all cited as causes of delay.<sup>55</sup>
51. The Government has accepted the majority of the recommendations of the Family Justice Review and brought forward legislation to implement them. The Children and Families Bill makes provision for limiting the use of expert evidence by introducing an additional test; introduces a twenty-six week time

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<sup>48</sup> Written evidence from After Adoption, Barnardo’s, Birmingham City Council’s Adoption Service, British Association of Social Workers (BASW), Bradford Metropolitan District Council, Coram, Fostering Network, Resolution, TACT

<sup>49</sup> *Family Justice Review, Final Report*, November 2011, foreword by David Norgrove. The report can be found at: <http://www.justice.gov.uk/downloads/publications/moj/2011/family-justice-review-final-report.pdf>

<sup>50</sup> Ministry of Justice, Court Statistics (quarterly): <http://www.justice.gov.uk/statistics/courts-and-sentencing/judicial-quarterly>

<sup>51</sup> TACT, written evidence

<sup>52</sup> Q 786, Q 783

<sup>53</sup> Q 785

<sup>54</sup> *Family Justice Review, op.cit.*

<sup>55</sup> Written evidence from Bradford Metropolitan District Council, BASW, Cambridgeshire County Council, Coram, Local Government Association, Nagalro, Resolution, TACT, Warwickshire County Council; oral evidence from Tim Loughton MP (Q 572) and Ofsted (Q 468).

- limit in care proceedings; and limits judicial scrutiny of care plans. We do not propose to comment in detail on the clauses dealing with care proceedings.<sup>56</sup>
52. The shortening of time-scales for care proceedings is to be welcomed but it will place a greater burden on the quality of assessments presented to the courts by the social workers which, the evidence suggests, are routinely not of sufficient quality to allow the court to rely on them in forming a judgment: “If rigorous, analytic and patently trustworthy local authority assessments were consistently available to the courts at the start of cases court timescales would be significantly reduced..[but] too often the initial work is not found to be of sufficient quality and has to be redone.”<sup>57</sup> The problem is wide-spread: “about 40% of cases are still being brought to the courts for applications for care orders with no up-to-date core assessment of the child and his family. Therefore, a great deal of the work has to be done within the proceedings.”<sup>58</sup>
53. The quality of the reports presented to court is crucial in delivering the desired reduction in delay, and this depends of course on the quality of work that takes place pre-proceedings. This view was supported by the House of Commons Justice Committee in their report on the draft Children and Families Bill: “all our witnesses agreed that accurate, comprehensive and detailed pre-proceedings work was vital to reducing delay with the care proceedings process.”<sup>59</sup> Unfortunately, our evidence indicated that in many cases social workers were not able to meet this challenge.<sup>60</sup>
54. There is evidence that concerted effort in pre-proceedings work can lead to an improvement in quality, which then translates into a reduction in delay during the care proceedings. Mr Justice Ryder referred to the success of the Tri-Borough Project in London in completing the majority of their care proceedings in under 26 weeks as a result of improved “quality assurance of the evidential material”<sup>61</sup> presented by social workers; this quality assurance had involved managers and consultants who had been brought in specifically to achieve this.<sup>62</sup>
55. **We welcome the Government’s plans to reduce the time taken by care proceedings but we are deeply concerned that achieving the Government’s new time limit of 26 weeks will depend heavily on the quality of assessments submitted by social workers. Poor quality assessments may need to be repeated and can lead to an over-reliance on outside experts, increasing delay for the child. Unless the quality of social worker assessments is urgently and comprehensively addressed there is little hope of the new time limit being met. This has resource implications both centrally and locally.**

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<sup>56</sup> The draft clauses of the Children and Families Bill dealing with care proceedings were subject to pre-legislative scrutiny by the House of Commons Justice Committee, *Pre-legislative Scrutiny of the Children and Families Bill*, Fourth Report of Session 2012–13, HC 739. The report can be found at: <http://www.publications.parliament.uk/pa/cm201213/cmselect/cmjust/739/739.pdf>

<sup>57</sup> Nagalro, written evidence

<sup>58</sup> Q 624

<sup>59</sup> *Pre-legislative Scrutiny of the Children and Families Bill*, *op. cit.*, paragraph 34

<sup>60</sup> Q 625

<sup>61</sup> Q 776

<sup>62</sup> *ibid.*

### Delays in bringing children into care

56. Another significant source of delay in adoption was identified as delay in bringing children into care. Much of the evidence suggested that many children “remain in abusive situations for far too long.”<sup>63</sup> There were many factors contributing to this: “lack of evidence to bring proceedings, parents going missing, social workers being too optimistic about parental capacity to change, and lack of understanding about the serious impact on children’s development of neglect.”<sup>64</sup> This was supported by the fact that “the great majority of children who come into care proceedings have been “known” to the local authority for a very long time.”<sup>65</sup>
57. We were told that much of the recent increase in care applications following the death of baby Peter Connelly involved cases of neglect, rather than abuse.<sup>66</sup> Lord Justice McFarlane explained that such cases were “much harder for the courts to digest because there will be reams of paperwork, none of them having single points that will decide the case but all a picture of neglect and poor parenting.”<sup>67</sup> The difficulty in assessing and providing sufficient evidence of neglect was also cited as a cause of delay in taking children into care by BASW<sup>68</sup> and the NSPCC.<sup>69</sup>
58. Over-estimating parental capacity to change “where there is considerable evidence that the birth parents will not be able to achieve the progress necessary, and within a realistic timeframe”<sup>70</sup> was cited by many witnesses as being at the root of much of the delay in bringing children into care.<sup>71</sup> In some cases, we were told, decisions to delay entry into care were compounded by a failure to provide targeted and properly resourced early intervention to tackle the family’s problems.<sup>72</sup>
59. **The timeliness of decision-making about whether or not to remove a child from home is crucial. This is especially the case for the very young. Where there is no capacity for parental change robust decision-making is needed to ensure that other permanency options, including adoption, are pursued.**
60. **Decisions to delay entry into care need to be accompanied by targeted intervention to address a family’s problems, with a timetable for review which takes into account the child’s need for stability.**

### Early intervention

61. The benefit of early intervention in families experiencing difficulties, in order to enable them to raise their children safely at home, was raised by many witnesses: “There is no doubt that intensive support at the earliest possible

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<sup>63</sup> Professor Julie Selwyn, written evidence

<sup>64</sup> *ibid.*

<sup>65</sup> Q 630

<sup>66</sup> Q 776

<sup>67</sup> Q 776

<sup>68</sup> BASW, written evidence

<sup>69</sup> Q 834

<sup>70</sup> Birmingham City Council’s Adoption Service, written evidence

<sup>71</sup> Written evidence from Adoption Focus, BAAF, Coram, Professor Julie Selwyn; oral evidence from NSPCC (Q 630)

<sup>72</sup> Q 719

- point is necessary if we are going to deal with the issues that these families have. That is the point at which we should be investing considerably more in the way of resources.”<sup>73</sup> Where there is capacity for parental change early intervention “can enable children to remain within their birth families.”<sup>74</sup>
62. The Family Nurse Partnership programme is funded by the Department of Health, and offers intensive and structured home visiting, delivered by specially trained nurses, from early pregnancy until the child is two.<sup>75</sup> The programme was developed in the United States (where it is known as the Nurse Family Partnership). Although only established in England from 2007, three decades of experience in the United States have demonstrated significant improvements in outcomes for children, including language development, school readiness and academic achievement, as well as improved parenting behaviour and reductions in abuse and neglect.<sup>76</sup>
  63. The work of the Family Drug and Alcohol Court (FDAC), currently being piloted at the Inner London Family Proceedings Court in Wells Street, was praised for its proactive and interventionist approach in cases where parental substance misuse was a key reason for the local authority to bring proceedings.<sup>77</sup> An evaluation of FDAC’s cases during its first 18 months was conducted by Brunel University. The rate of return to the birth family was found to be higher than in conventional proceedings. In addition, fewer of the cases became contested hearings and in those cases where parents could not control their substance misuse, children were placed in a permanent alternative family sooner.<sup>78</sup>
  64. Professor Thoburn suggested that intensive services to address parental problems can lead to speedier outcomes in general, whether it is for rehabilitation with the birth family or for adoption.<sup>79</sup> Professor Eileen Munro, of the Department of Social Policy at the London School of Economics, supported that analysis: “with good practice and trying to help families you can reach a quicker decision about whether they can use help, whereas if you are not actively trying to engage them in change, then you cannot work out whether they can change or not.”<sup>80</sup>
  65. One of the benefits of intensive work to address parental problems was that it reduced significantly the likelihood of more children being born to families that were not able to parent them safely, and subsequently being taken into care.<sup>81</sup> This was supported by evidence from the NSPCC, who were piloting a support programme adapted from the United States, entitled the New Orleans Intervention Model. The programme works intensively with the birth family while the child is placed with foster carers who may go on to

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<sup>73</sup> Q 189

<sup>74</sup> Action for Children, written evidence

<sup>75</sup> Q 841; written evidence from Roger Bullock, Nagalro

<sup>76</sup> Details of the Family Nurse Partnership (FNP) Programme can be found at:

[http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH\\_118530](http://www.dh.gov.uk/en/Publicationsandstatistics/Publications/PublicationsPolicyAndGuidance/DH_118530)

<sup>77</sup> Q 167

<sup>78</sup> Harwin J, Ryan M and Tunnard J, with Pokhrel S, Alrouh B, Matias C and Momenian-Schneider S (May 2011) *The Family Drug and Alcohol Court (FDAC) Evaluation Project Final Report*. Brunel University [http://www.coram.org.uk/assets/downloads/FDAC\\_EVALUATION\\_EXECUTIVE\\_SUMMARY\\_May111.pdf](http://www.coram.org.uk/assets/downloads/FDAC_EVALUATION_EXECUTIVE_SUMMARY_May111.pdf)

<sup>79</sup> Professor Thoburn, written evidence

<sup>80</sup> Q 395

<sup>81</sup> Q 697

adopt the child if a return to the birth parents is not possible. Outcomes from the United States demonstrated that “even when the birth family did not get [their] child home, when they had subsequent children those subsequent siblings were less likely to be abused.”<sup>82</sup>

66. Given the important preventative benefits of early intensive work with birth parents, we were disappointed to see that additional funding provided to local authorities in the form of the Adoption Reform Grant was resourced from the £150 million taken away from the Early Intervention Grant, which the Secretary of State for Communities and Local Government confirmed in announcing the local government settlement for 2013–14.<sup>83</sup>
67. **Where there is parental capacity to change, the arguments in favour of early and intensive intervention to address the parents’ problems are compelling: enabling children to live safely within their birth families reduces the number of children in care and the numbers waiting for an alternative permanent placement. We are concerned therefore, that adoption reform is being funded by taking money from the Early Intervention Grant. We urge the Government not to undermine further the importance of preventative programmes by focusing on adoption at the expense of early intervention.**
68. There is of course a tension between the time spent on intensive intervention to enable parents to address their problems on the one hand, and the impact of delay on the child on the other hand, especially in light of the latest research on brain development and a child’s need for stability and security:
- “We cannot ignore the growing body of knowledge about the impact of early life trauma on children and therefore we support early intervention with support for families to determine whether they can parent children, that safely meets their needs and in the child’s timeframe. Where this is not the case, there needs to be robust decision making that recognises the benefits adoption can bring to children.”<sup>84</sup>
69. So while there was support for early intervention in families to address problems, this should not be delivered at the expense of the child’s best interests: Adoption Focus urged those working with children to “accept that small children cannot wait forever for their parents to change.”<sup>85</sup>
70. In order to balance the needs of the parents and of the child, therefore, early intervention needed to be targeted at those parents with the greatest capacity for change. Judge Crichton identified “young, drug-addicted mums, who are perhaps on their first or second pregnancy” as the cases for which there was a real chance of change in the FDAC programme.<sup>86</sup> Working with young mothers during the last months of pregnancy was considered an important target because it enabled changes to be made before the child was born, effectively “stealing time for the child.”<sup>87</sup>

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<sup>82</sup> Q 838

<sup>83</sup> Letter to the Chairman from Edward Timpson MP, 23 January 2013. See Appendix 7.

<sup>84</sup> After Adoption, written evidence

<sup>85</sup> Adoption Focus, written evidence

<sup>86</sup> Q 699

<sup>87</sup> *ibid.*

71. **A balance needs to be struck between giving parents time to address their problems and respecting the child’s need for a secure and loving attachment. Robust assessment of parental capacity to change, by social workers and their managers, is essential to ensure that early intervention programmes are appropriately targeted. It is imperative to ensure that a child’s need for secure attachment, especially when very young, is not compromised by prolonged attempts to rehabilitate the family.**

### **Delays after entering care**

72. The removal of a child from home, however neglectful or abusive, will have a traumatic effect on the child. On entering care what children need is “the best, most skilled but most committed and nurturing care from the day that they leave their family. What actually happens is that all too often they get temporary foster care, while we think about what to do next and formulate a plan.”<sup>88</sup>
73. In order for the harmful effects of abuse or neglect to begin to be addressed, a decision about a child’s future needs to be taken as soon as possible after entering care, and with a view to minimising the number of care placements that are experienced. However, it appears that “there has been too much focus on finding a ‘placement’ rather than in focusing on permanency for a child.”<sup>89</sup> In our earlier report we recommended a review of the current Statutory Guidance on Adoption to emphasise the need to begin formulating permanency plans at the first statutory review, one month after entry into care, and that the second review, at four months after entry into care, should be the very latest point at which a decision on permanency is made.
74. **We reiterate the support we gave in our previous report for early decision-making after children enter care, and for permanency planning to be prioritised one month after entry into care. To support this we reiterate the recommendation in our earlier report to review the Statutory Guidance on Adoption.**
75. We were surprised to discover from Professor Munro that in her review of the child protection system she did “not remember anyone mentioning adoption.”<sup>90</sup> We have also heard that a “lack of involvement of the adoption teams in child care planning”<sup>91</sup> led to delays in reaching permanency decisions, especially for children for whom adoption was appropriate. Ofsted argued that “adoption should be considered as an integral part of the whole ‘looked-after children’ system, not as an isolated and discrete function or service.”<sup>92</sup> Changes proposed to the Ofsted inspection regime, to be implemented from April 2013, will replace the separate inspections of adoption, fostering and child protection services with “a new framework for the inspection of services and outcomes for looked-after children.”<sup>93</sup> It is hoped that this “will promote more integrated working between different

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<sup>88</sup> Q 838

<sup>89</sup> Professor Julie Selwyn, written evidence

<sup>90</sup> Q 393

<sup>91</sup> After Adoption, written evidence

<sup>92</sup> Ofsted, written evidence

<sup>93</sup> *ibid.*

elements of the local authority's service, in particular between children's social care teams and the adoption team."<sup>94</sup>

76. **We urge Directors of Children's Services to ensure that adoption is integrated fully into child protection: good communication between adoption and safeguarding teams is essential to reduce the delay for those children who are not able to return to their birth families. We support the revised Ofsted reporting regime in its aim to promote more integrated working between local authority teams providing services for all looked-after children.**

### Early placement

77. For those children for whom a decision has been made that adoption is in their best interests, there are opportunities to reduce the time that children have to wait for an adoptive placement and to limit the damage caused by movement between temporary placements.
78. In our earlier report, we set out our support for concurrent planning, whereby a child is moved to a foster placement with carers who are also approved prospective adopters before a decision on whether the child should be adopted has been made.<sup>95</sup> The local authority continues to work towards rehabilitation with the birth family. If it is decided that the child should be adopted there will be no need for the child to be moved again.
79. **Concurrent planning provides significant benefits in terms of enabling early attachments, minimising disruption, and reducing delay. We support its widest possible application**
80. In our last report we also set out our support for the Government's proposal, as outlined in the draft clauses published on 7 November, to encourage the greater use of 'fostering for adoption'. Under the scheme the move to a placement with foster carers who are also approved prospective adopters would take place *after* the decision has been made by the local authority that the child should be placed for adoption, but before authority to place the child has been granted by the court. In that scenario there would be no rehabilitative work with the birth parents. We urged the Government to widen the scope of the proposed duty to require all local authorities actively to consider a fostering for adoption placement for all children for whom adoption is the permanency plan. In order to expand the number of children able to benefit from a fostering for adoption placement, we also recommended a review of the statutory guidance on adoption to ensure that permanency planning is given serious consideration one month after a child enters care.
81. The Children and Families Bill makes provision, in clause 1, for the placement of looked-after children with prospective adopters who are also approved foster carers. It imposes a new duty on local authorities to consider a fostering for adoption placement. The point at which the new duty arises is when the local authority is considering adoption for a child—i.e. before the decision that adoption is in a child's best interests has been taken.

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<sup>94</sup> *ibid.*

<sup>95</sup> 1<sup>st</sup> Report of Session 2012–13, HL Paper 94, paragraphs 21 & 40. The report can be found at: <http://www.publications.parliament.uk/pa/ld201213/ldselect/ldadopt/94/94.pdf>

82. This clause, compared to the draft clause which we considered in our previous report, widens considerably the circumstances in which a fostering for adoption placement will be considered. It creates the possibility that a child could be placed with prospective adopters, and that bonds and attachments could be formed, before the local authority has decided that adoption is the plan. The risk to the prospective adopters of the child being returned to the birth family is much greater in these circumstances.
83. There is also the significant risk of challenge under Articles 6<sup>96</sup> and 8<sup>97</sup> of the ECHR on the basis that the decision has been pre-judged and that the birth family have not been afforded a fair chance at reunification.
84. We put these concerns to Edward Timpson MP, Parliamentary Under-Secretary of State (Children and Families) at the Department for Education. In replying he drew our attention to the fact that the proposed duty must be read in the context of the wider requirements of section 22C of the Children Act 1989, under which local authorities must make arrangements for a child to live with his or her parents, or with a person who has parental responsibility, or in whose favour a residence order was made prior to the care order, unless that is not reasonably practicable or consistent with the child's welfare. The Minister summarised the position as follows:
- “This means that a local authority's priority, when a child is looked-after, must be to try to rehabilitate the child with their birth family by supporting the family in overcoming the challenges that led to the child becoming looked-after in the first place. ‘Fostering for Adoption’ does not change this.”<sup>98</sup>
85. We welcome this clarification. However, it is in the implementation of the new provisions that risk of challenge under Articles 6 and 8 of the European Convention on Human Rights emerges. Local authorities will need to be mindful of their obligations under the ECHR in applying the new duty. We agree with the Minister that “where rehabilitation with the birth parents remains an option local authorities will need to ensure they comply with the Convention rights of both the parents and the child.”<sup>99</sup> This places more pressure on the quality of work in the pre-proceedings phase to ensure that all reasonable steps have been taken by the local authority to explore reunification of the child with the birth family at the earliest opportunity, and the parents have been able effectively to participate in the decision-making process.
86. **We welcome the Government's proposal to impose a new duty on local authorities to consider a fostering for adoption placement when considering adoption for a child. We are concerned, however, that there is a risk of challenge under the European Convention on Human Rights, unless the local authority has taken all reasonable steps to explore reunification of the child with the birth family at the earliest opportunity, and the parents have been able effectively to participate in the decision-making process. We are concerned that this may**

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<sup>96</sup> Article 6 protects the right to a fair trial

<sup>97</sup> Article 8 protects the right to respect for family life; see paragraph 37

<sup>98</sup> Letter to the Chairman from Edward Timpson MP, 12 February 2013, see Appendix 8

<sup>99</sup> *ibid.*

**inhibit the extent to which local authorities will choose to place children in fostering for adoption placements.**

87. **We strongly urge the Government to issue clear guidance to local authorities on how to satisfy their obligations under the ECHR when applying the new duty on fostering for adoption.**

### **Delays caused by kinship care assessments**

88. Another source of delay cited by witnesses was the late emergence of possible kinship carers once proceedings were underway.<sup>100</sup> Some witnesses felt that the current legal framework allowed alternative carers to come forward “too late in the proceedings.”<sup>101</sup> The Association of Directors of Children’s Services suggested that “explicit guidance” would be useful on the extent to which kinship carers must be considered once proceedings have begun. An alternative suggestion was for the judge to raise the issue directly at the first or second hearing.<sup>102</sup>
89. On the other hand, some witnesses had sympathy with the reasons behind the delay in kinship carers coming forward: “Quite often, there is someone who would like to put themselves forward but they do not because they do not want to scupper the chances of the birth family. So they really leave it until the last moment when they see that probably the birth parents are not going to be caring for the children.”<sup>103</sup>
90. The benefits of kinship care are demonstrated by the outcomes. We were told that children in the care of family or friends do as well if not better than those in unrelated foster care, in terms of their health, school attendance and performance, self-esteem and personal and social relationships.<sup>104</sup> Kinship carers are normally of the same ethnic background and have a previous relationship with the child, providing continuity and a shared sense of identity; because of their emotional commitment to the child, such placements tend to be stable.<sup>105</sup>
91. In our previous report we supported family group conferences as a mechanism for ensuring early engagement from the wider birth family, and we recommended its inclusion in a pre-proceedings protocol, with specific guidance on how such conferences should be conducted. We note the importance of ensuring that children are involved in family group conferences, and that their voices are heard, either directly or via an advocate<sup>106</sup>; we discuss the voice of the child in more detail in Chapter 5. Convening such a conference before a child enters care has the benefit of

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<sup>100</sup> Written evidence from ADCS, Adopt WestMids, Birmingham City Council’s Adoption Service, Bradford Metropolitan District Council, Cambridgeshire County Council, Resolution; oral evidence from HH Judge Swindells (Q 590)

<sup>101</sup> Birmingham City Council’s Adoption Service, written evidence

<sup>102</sup> Resolution, written evidence

<sup>103</sup> Q 590

<sup>104</sup> Kinship Care Alliance, written evidence

<sup>105</sup> *ibid.*

<sup>106</sup> A new accreditation standards framework for family group conference services is currently being trialled by the Family Rights Group on behalf of the Department for Education, and is due to be rolled out nationwide from April 2013. Standard 4 of the framework reads ‘The central focus should be the child or adult who is the subject of the FGC and they should be offered support in their involvement including an advocate’.

raising concerns about a child's care with the wider birth family, and enables the identification of possible family or friends carers at the earliest opportunity.

92. **We are persuaded of the benefits of friends and family care as alternatives to local authority foster care, where a suitable carer is available. To avoid delay such carers should be identified as early as possible, ideally pre-proceedings.**
93. **We recommend that it should become normal practice where possible for local authorities to convene a family group conference, or similar arrangement, with family members and friends, before a child becomes looked-after, or as soon as possible after entry into care, to enable identification of alternative carers before any decision about the child's future has been made. It is essential that the child is involved either directly or via an advocate in such conferences.**

### **Delays in matching children with prospective adopters**

94. A further source of delay in adoption is the practice of waiting until after the placement order has been granted before commencing family finding. The reasons given for this are two-fold. Social workers spend time and money preparing prospective adopters and they therefore guard their list jealously.<sup>107</sup> They are unlikely for this reason to take one of their adopters off the list by matching them with a child whose legal status remains uncertain. In addition, there is concern about sharing a child's details with prospective adopters and possibly allowing them to form attachments, before that child is legally available.<sup>108</sup> There is also some suggestion that the courts have been reluctant to sanction early family finding, contributing to an overall delay.<sup>109</sup>
95. The concern about legal uncertainty appears unfounded—we were told that it is extremely rare for placement orders to be refused.<sup>110</sup> This is borne out by the figures: in 2011 only two placement orders were refused in county courts or family proceeding courts in England and Wales.<sup>111</sup>
96. The inertia about family finding before a placement order has been granted is compounded by the fact that there is in many cases poor communication between adoption teams and those working in child protection (which we discussed above at paragraph 76). Adoption social workers therefore have little advance notice of the children who may soon become available for adoption.
97. In our earlier report we commented on the need to begin family finding at an earlier stage in order to enable greater take-up of 'fostering for adoption'; we note that the new duty to consider a fostering for adoption placement before a decision on adoption has been made, as set out in clause 1 of the Children and Families Bill (see paragraphs 82–88), would require family finding to take place even sooner.

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<sup>107</sup> Q 635

<sup>108</sup> *ibid.*

<sup>109</sup> Written evidence from BAAF, Cambridgeshire County Council

<sup>110</sup> Q 790

<sup>111</sup> Department for Education, written evidence

98. **We reiterate the recommendation in our earlier report that it is vital for Directors of Children’s Services to address the current practice among some local authorities of delaying family finding until a placement order has been granted.**

### Social work culture and practice

99. Sir Martin Narey, the Ministerial Adviser on Adoption, argued that the current child protection system remained “gripped by an unrealistic optimism about the capacity of deeply inadequate parents to change”<sup>112</sup> and that children were disadvantaged as a result of “the naïve optimism that paralyses the system.”<sup>113</sup> The British Association of Social Workers (BASW) and the College of Social Work refuted the notion that social workers were governed by a culture of optimism, but they were clear about their statutory obligation under the Children Act 1989 to promote the upbringing of children within their birth families: “we have a duty as social workers to ensure that we give families the best chance.”<sup>114</sup>
100. It was clear from much of the evidence that social workers are overburdened in terms of case-load but also by “managerial cultures” which combined to “prevent them from spending the time with the family and the children that they need to spend.”<sup>115</sup> The Munro Review found that the demands of bureaucracy—of statutory guidance, targets and local rules—had become so extensive as to limit the capacity of practitioners and their managers to work directly with children, young people and their families.<sup>116</sup> A succession of high profile failings in child protection, including the cases of Victoria Climbié and baby Peter Connolly, had led to a “hugely risk-averse” culture.<sup>117</sup> As the Munro Review reported, successive Governments had responded to failures in child protection with more regulation and more proscription, leading to a “very defensive compliance culture”<sup>118</sup> in which social workers and their managers were “more concerned with pleasing Ofsted than meeting the best interests of a child.”<sup>119</sup>
101. Professor Munro explained to us that a target-driven culture which focused explicitly on timescales risked losing focus on outcomes for the child.<sup>120</sup> Another issue frequently identified by witnesses, including BASW, was a “skills-gap” in front-line social work.<sup>121</sup> Social workers were described as “not sufficiently well-trained, well-supervised” to do their work, and in particular the detailed assessment work required for child protection cases.<sup>122</sup> This was attributed to some extent to the fact that experienced social workers, once

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<sup>112</sup> Sir Martin Narey, written evidence

<sup>113</sup> *ibid.*

<sup>114</sup> Q 599

<sup>115</sup> Q 625

<sup>116</sup> The Munro Review of Child Protection: Final report *A child-centred system*, CM 8062, May 2011; executive summary, paragraph 5. The report can be found at:

[http://media.education.gov.uk/assets/files/pdf/m/8875\\_dfe\\_munro\\_report\\_tagged.pdf](http://media.education.gov.uk/assets/files/pdf/m/8875_dfe_munro_report_tagged.pdf)

<sup>117</sup> Q 702

<sup>118</sup> Q 383

<sup>119</sup> *ibid.*

<sup>120</sup> Q 384

<sup>121</sup> Q 600

<sup>122</sup> Q 649

promoted, ceased to be involved directly with families, and their expertise was therefore lost to the front-line. Others referred to social workers becoming “de-skilled” by the system.<sup>123</sup>

102. Detailed and high quality supervision of social workers was cited as an important part of good practice, and critical in ensuring that the child’s best interests were met. BASW and the College of Social Work agreed that it was easy for social workers to be “drawn into families and you do need a supervisor standing outside saying ‘Enough already. I think it is time to draw the line here’.”<sup>124</sup>
103. The issues raised above have largely been addressed by Professor Munro’s review of child protection. The recommendations included radically improving the knowledge and skills of social workers from initial training to continuing professional development, and encouraging social workers to draw on the latest research evidence to support their decision-making. There were also proposals for creating senior posts within local authorities which retain direct involvement with families. The Government has accepted all the recommendations of the Munro Review, with some provisos, and eight local authorities are trialling new approaches to assessing children in need. We welcome the review and the Government’s response to it.
104. **Social workers perform a vital role in protecting the most vulnerable children in society; the status, training and reward of social workers are therefore extremely important. We invite the Government to give this further consideration.**
105. **We support the findings of the Munro Review, in particular, the focus on improving the knowledge and skills of social workers and their supervision; and the proposal to retain experienced social workers in front-line services after promotion.**
106. We were concerned throughout our inquiry that adoption was not sufficiently taught in social work undergraduate courses. Professor Munro concluded that there was not enough focus on children and family work in basic social work training.<sup>125</sup> Once qualified, social workers might have little experience of adoption, depending on the size of their local authority and the prominence which adoption is given by the management and leadership of the authority. But it is evident that social workers themselves recognise the gaps in their training. A survey of members by the College of Social Work revealed that many wanted more training on a range of subjects, including adoption.<sup>126</sup>
107. **We recommend that social workers’ training on adoption, alongside other forms of permanence, is strengthened. We also recommend that permanence planning, including adoption, becomes part of a post-qualifying specialism for social workers, with a particular emphasis on the importance of timely decision-making.**
108. **Improving the training and supervision of social workers will, of course, have cost implications. However, we believe that this is an area of work of such importance to society as a whole that under-resourcing it would be a false economy.**

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<sup>123</sup> *ibid.*

<sup>124</sup> Q 599

<sup>125</sup> Q 400

<sup>126</sup> Q 601

## CHAPTER 5: THE VOICE OF THE CHILD

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109. In conducting our inquiry, we considered it important to seek the views of children with experience of the care system and adoption processes. We are grateful to the Office of the Children’s Rights Director, Dr Roger Morgan MBE, for arranging two meetings at which we heard the views of a diverse group of children. The views expressed in those meetings inform some of our recommendations here.<sup>127</sup>
110. One of the key themes that emerged across the two groups was a sense that children were not listened to when important decisions were being made about their lives:
- “They don’t listen to me because I’m a looked-after child and they are professionals.”<sup>128</sup>
- “People only listen to what they want to hear.”<sup>129</sup>
111. One young person had been on the point of being adopted but had had reservations about her new adoptive family: “I told my social worker but they didn’t listen. Then at the last moment the family pulled out.”<sup>130</sup> Many others in the group of adopted children said they had been old enough to have a view when they were adopted but had not been given a chance to have their say. Some felt that professionals presumed that some children were too young to comment or understand and therefore failed to ask them their views.
112. The other issues that were very important to the children and young people were support in schools and sibling contact. We deal with those matters in Chapter 7 on Post-adoption Support and Chapter 8 on Post-Adoption Contact. This chapter considers the role of professionals whose job it is to represent children and advocate on their behalf.

### Advocacy and representation for children

113. Children in care find themselves engaged with a wide range of different agencies and professionals, all of whom are seeking to act in the best interests of the child. Some professionals are concerned solely with providing representation on the part of children involved in proceedings. These include Independent Reviewing Officers, who provide a review function for local authority decision making, and guardians from the Children and Family Court Advisory and Support Service (CAFCASS), who represent children in legal proceedings.

### Independent Reviewing Officers

114. Section 118 of the 2002 Act introduced the new statutory role of Independent Reviewing Officer (IRO), with responsibility for the process of

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<sup>127</sup> The views expressed in the discussions with children are summarised in a report by the Children’s Rights Director for England: *Improving Adoption and permanent placements*, January 2013: <http://www.parliament.uk/business/committees/committees-a-z/lords-select/adoption-legislation-committee/publications/>

<sup>128</sup> *ibid.*

<sup>129</sup> *ibid.*

<sup>130</sup> *ibid.*

reviewing looked-after children's cases. Section 118 amended section 26 of the Children Act 1989, so that local authorities are required by regulations to appoint IROs to participate in the review of children's cases; monitor the authority's function in respect of the review; and refer a case to CAFCASS if the failure to implement the care plan might be considered to breach the child's human rights.

115. The statutory guidance for independent reviewing officers estimates that a caseload of 50 to 70 looked-after children per IRO would represent good practice, and allow the delivery of a quality service.<sup>131</sup> There is at present concern, in light of the judgement in *A & S (Children) v Lancashire County Council*,<sup>132</sup> about the workload of IROs. Mr Justice Jackson found that the workload of the IRO had limited the ability to review appropriately the care plan of the children concerned (see paragraph 125). The case was referred to by Jenny Clifton, Principal Policy Advisor at the Office of the Children's Commissioner:
- “The IRO there had up to 200 cases at one point and was expected to know those children, know their care plan, know the legal situation and become familiar enough to pursue the progress of their care plans. That is an impossible situation.”<sup>133</sup>
116. These concerns were echoed in evidence from CAFCASS, Resolution, Nagalro, the Interdisciplinary Alliance for Children and many other contributors to our work.
117. There were mixed views on the relevance and effectiveness of the IROs amongst the children we met. In one group, only 4 out of 15 children felt that their IRO had been helpful. Those who spoke positively emphasised the importance of the role, stating that IROs always explained the care plan, and helped to ensure that the child's voice was heard. Five of the children, however, did not know who or what an IRO was. Many of those with negative views criticised the lack of contact that they had had with their IRO.
118. The National IRO Managers Group stated that experiences were mixed and varied by authority. The complexity of cases also needed to be considered when making judgements about workload, in addition to the overall volume of cases being handled by individual IROs.<sup>134</sup>
119. Under proposals in clause 15 of the Children and Families Bill it is anticipated that court scrutiny of care plans will be reduced. A child's solicitor or guardian will, in court, be restricted to exploring the category of placement planned for a child. This means that a greater degree of scrutiny of care planning will fall upon the IRO service, further adding to the workload of those working in the service.

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<sup>131</sup> IRO Handbook: Statutory Guidance for independent reviewing officers and local authorities on their functions in relation to case management and review for looked after children, Department for Children, Schools and Families, March 2010; page 50. The guidance is issued under two provisions: The Children and Young Persons Act 2008, which created a new power for the Secretary of State to issue statutory guidance to IROs; and section 7 of the Local Authority Social Services Act 1970, which requires local authorities, in the exercise of their social services functions, to act under the general guidance of the Secretary of State; unless there are exceptional reasons local authorities must follow the requirements set out in this guidance.

<sup>132</sup> [2012] *EWHC 1689* (Fam).

<sup>133</sup> Q 540

<sup>134</sup> National IRO Manager's Group, written evidence

120. **We are concerned that some Independent Reviewing Officers (IROs) are charged with reviewing the care plans of too many children, when statutory guidance suggests that they should handle no more than 70 cases at any one time. We believe that excessive workloads prevent IROs from carrying out their statutory duties to promote the best interests of the child. We recommend that the number of cases handled by IROs should be monitored more robustly by IRO managers, and that action should be taken, where appropriate, to reduce workloads. Local authorities are currently under a duty to appoint IROs to review children’s cases and should appoint a sufficient number to enable IROs effectively to carry out their statutory duties.**

*The independence of IROs*

121. Currently, the majority of IROs are employed directly by the local authority whose decision-making they review. A minority of IROs work with councils as self-employed professionals, on a contract basis. The regulations and statutory guidance provided for the IRO service recognise the tension between the independence of IROs and their employment within the local authority. A number of measures are set out in guidance<sup>135</sup> to seek to protect independence in this context.
122. Despite these measures, concerns regarding the independence of IROs do exist, with reports that IROs “have found difficulties in challenging local authority care plans.”<sup>136</sup> These concerns were widespread in the evidence that we received. CAF/CASS conceded that: “locating [IROs] within the authority certainly creates compromises.”<sup>137</sup> The Interdisciplinary Alliance for Children<sup>138</sup> and BASW agreed.<sup>139</sup>
123. Provision already exists, in Section 11 of the Children and Young Persons Act 2008, for the establishment of an IRO service which is independent of the local authority. The relevant provision has not yet been implemented. We believe that the Government should give further thought to this matter.
124. **We believe that IROs could discharge their duties more effectively if they were employed outside the local authority. It would be necessary for a sufficient number to be appointed to deal with relevant case loads. We recommend that the Government implement Section 11 of the Children and Young Persons Act 2008 to achieve this.**

*The review and revocation of placement orders*

125. Judgment in the case of *A & S (Children) v Lancashire County Council* was given during the course of our inquiry. That case concerned two boys who were made available for adoption under the old freeing for adoption orders<sup>140</sup> in 2001. The boys remained under the freeing orders for 11 years without

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<sup>135</sup> IRO Handbook, *op. cit.*, page 12

<sup>136</sup> Q 540

<sup>137</sup> Q 272

<sup>138</sup> Interdisciplinary Alliance for Children, written evidence

<sup>139</sup> BASW, written evidence

<sup>140</sup> Freeing for adoption orders were replaced by placement orders under the Adoption and Children Act 2002.

ever being placed for adoption, during which time they experienced an excessive number of placement moves. The court determined that there had been primary failings in front line social work, with a contributory factor being the inadequacy of the IRO system, which did not pick up on and remedy the primary problem.

126. Whilst this is clearly an extreme case, we are aware that other examples of poor review practice exist. We are concerned for the welfare of children who are the subject of freeing for adoption orders, or placement orders, but have not been placed for adoption. Evidence has shown that there is an age beyond which the potential for these children to be adopted diminishes significantly; it is therefore essential that the status and circumstances of these children are subject to regular review.
127. Under section 24 of the Adoption and Children Act 2002 there is a statutory route for local authorities to apply for the revocation of a placement order, where a suitable match for the child has not been identified. The statutory guidance for IROs states that, where a child is subject to a placement order but has not yet been placed, the IRO must hold regular reviews; the first review after 3 months, and thereafter at least every 6 months.<sup>141</sup> If a child has not been placed by the time of the second review, specific consideration must be given as to whether the child should still be placed for adoption. If the adoption plan is changed, the IRO should be alert to the need for the local authority to apply for revocation of the placement order. Where this fails to happen, the guidance states that it “may be necessary for the IRO to assist the child to make the application, or to ensure that an application is made on his behalf.”<sup>142</sup> We are concerned that the statutory guidance on this matter is not always being followed.
128. **We believe that it is essential that IROs undertake regular reviews of the circumstances of children subject to placement order but not yet placed for adoption, as they are required to by statutory guidance. Where appropriate, IROs need to ensure that an application to the court for revocation of a placement order is made. IRO managers and Directors of Children’s Services need to ensure that the guidance on children subject to placement order but not yet placed for adoption is always followed.**

### **The role of CAFCASS**

129. A guardian is appointed by the court to represent children in care and placement order proceedings. The guardians are generally provided by CAFCASS. It is expected that the guardian appointed for the care proceedings will also be the guardian for the placement order proceedings. The guardian will usually instruct a solicitor on behalf of the child.
130. The CAFCASS guidance for placement proceedings sets out the duties of children’s guardians. These state that the guardian must:
- Meet the child and give advice as appropriate to age and understanding;
  - Contact and / or try to interview appropriate people involved in the child’s life;

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<sup>141</sup> IRO Handbook, *op. cit.*, page 25

<sup>142</sup> *ibid.*, page 26

- Seek appropriate professional assistance where necessary;
- Write a report to the court, addressing the welfare checklist contained in the Adoption and Children Act 2002 and drawing attention to any issues which will be of assistance to the court in considering the application.

The children’s guardian, or the solicitor appointed to the child, must attend all directions hearings unless the court directs otherwise. The appointment of the children’s guardian ends at the conclusion of placement proceedings; the CAF/CASS guidance makes clear that the guardian should be in contact with the child’s IRO at this point, to hand over relevant information.<sup>143</sup>

131. Anthony Douglas, Chief Executive of CAF/CASS, explained that the organisation was currently handling record numbers of cases. CAF/CASS had expanded its workload by around 48% in the last four years.<sup>144</sup> In July 2012, 99.9% of cases being handled by CAF/CASS had had guardians allocated; there were only four unallocated public law cases at the time that Mr Douglas spoke to us.<sup>145</sup>
132. CAF/CASS is performing well as far as the allocation of guardians is concerned. We did, however, receive evidence to suggest that the performance of CAF/CASS guardians was variable and sometimes inadequate. Alex Verdan QC described CAF/CASS as “overstretched and beleaguered.”<sup>146</sup> Ian Bugg, of the Family Law Bar Association, believed that practice was “incredibly variable around the country.”<sup>147</sup>
133. There was a feeling amongst some local authorities that the work of CAF/CASS can contribute to court delays. Warwickshire County Council argued that the workload experienced by CAF/CASS guardians meant that they were not able to understand fully the cases in their care; this led to increased court demand for independent assessments. Similar views were expressed by Birmingham City Council’s Adoption Service, Adopt WestMids and the Tri-borough partnership of authorities.<sup>148</sup>
134. CAF/CASS acknowledged that, whilst allocation rates were extremely high, some guardians were facing workload pressures.<sup>149</sup> There were, however, some signs of improvement; the confidence that some witnesses had in CAF/CASS was increasing. Mr Justice Ryder argued that “our general experience is that these guardians are working well and, although there have been issues in the relatively recent past—the Select Committee reporting on CAF/CASS made those issues very clear—the practice at the moment is improving.”<sup>150</sup>
135. **We welcome the fact that CAF/CASS is proving successful in allocating guardians to all children; this is commendable given the significant increases in care proceedings over recent years. We are**

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<sup>143</sup> Guidance for Placement Proceedings, CAF/CASS, 2011

<sup>144</sup> Q 263

<sup>145</sup> Q 259

<sup>146</sup> Alex Verdan QC, written evidence

<sup>147</sup> Q 644

<sup>148</sup> Written evidence from Adopt WestMids, Birmingham City Council’s Adoption Service, Tri-borough partnership, Warwickshire County Council

<sup>149</sup> Q 259

<sup>150</sup> Q 784

**concerned, however, that the quality of this provision can sometimes be variable.**

- 136. We recommend that CAFCASS continue to ensure consistency of practice. The Government should ensure that CAFCASS has sufficient resources to allow for guardians to be allocated to all children subject to care and placement proceedings, and for those guardians to have an appropriate amount of time available to allow them to discharge their duties effectively.**

## CHAPTER 6: THE STRUCTURE OF ADOPTION SERVICES

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137. The *Action Plan for Adoption* set out the Government's desire to expand significantly the number of children who are adopted each year in England. We received a substantial amount of evidence identifying the lack of prospective adopters as a problem causing delay in the adoption process.<sup>151</sup> At the end of March 2012 there were over 4,600 children awaiting adoptive placements; and a total of 4,263 adoptive families were approved in 2012.<sup>152</sup> If more children are to be adopted, then more adopters will be required. This chapter considers how adopters are recruited, how they are assessed and trained, and how they are matched to children who are waiting to find a family.

### Who provides adoption services?

138. Section 3 of the Adoption and Children Act 2002 imposes a duty upon each local authority to continue to maintain within their area an adoption service for:

- (i) children who may be adopted, their parents and guardians;
- (ii) persons wishing to adopt a child; and
- (iii) adopted persons, their parents and families.

139. There are currently 150 local authorities providing adoption services in England.<sup>153</sup> The size of these authorities varies widely, from populations of less than 100,000 to populations of over 1,000,000. The nature of their care populations, and the scale of challenge facing authorities in placing children for adoption, also varies. Local authorities act as the corporate parent for children in care; they also recruit and assess adopters, before matching them to children in care.

140. Voluntary adoption agencies recruit and assess prospective adopters; they create matches for children who are in the care of a local authority, and are then paid by the local authority for doing so. There are currently 49 voluntary adoption agencies registered with Ofsted. They vary in scale: some are locally or regionally based, such as the Yorkshire Adoption Agency or Adoption North West; others are major national organisations, such as Barnardo's. Voluntary agencies placed 611 children for adoption in 2011–12. This was a 20% increase on the previous year.<sup>154</sup>

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<sup>151</sup> Written evidence from Barnardo's, BASW, CAF/CASS, Family Law Bar Association and Professor Julie Selwyn

<sup>152</sup> *Further Action on Adoption: Finding more loving homes*, Department for Education, January 2013

<sup>153</sup> There are 152 authorities with adoption responsibilities; two of these (Telford and Wrekin and Central Bedfordshire) provide adoption services through another local authority. The contracting out of services is possible under section 3(4) of the Adoption and Children Act 2002.

<sup>154</sup> Sector Performance Report 2011 – 2012, Consortium of Voluntary Adoption Agencies, November 2012

**BOX 4****Recruitment and matching of adopters in England<sup>155</sup>**Approved adoptive families, March 2012

Total number of approved adoptive families: 4,263

Approved by local authorities: 3,640 (85% of total)

Approved by voluntary agencies: 623 (15% of total)

Families approved by local authorities:

Matched to a child, but awaiting placement: 1,700 (47%)

Child placed but awaiting adoption order: 1,720 (47%)

Awaiting a match: 220 (6%)

Families approved by voluntary agencies:

Matched to a child, but awaiting placement: 80 (13%)

Child placed but awaiting adoption order: 316 (51%)

Awaiting a match: 227 (36%)

Enquiries and applications, April 2011–March 2012

Enquiries about adoption: 25,380

Applications for approval to adopt: 4,145

Applications made to local authorities: 3,156

Applications made to voluntary agencies: 629

Results of applications for approval to adopt, April 2011–March 2012

Approved: 3,048

Withdrawn: 478

Refused: 23

**Recruiting more adopters**

141. At present, potential adopters can choose who to approach when looking to adopt a child—their own local authority, another local authority or a voluntary agency. The wide range of choice for adopters was viewed positively in evidence.<sup>156</sup> Choice in this context could, however, also be viewed as fragmentation. Jonathan Ewen, Lead Director for Children in Care

<sup>155</sup> From Ofsted, *Official Statistics Release: Adoption quality assurance and data forms 2011–12*, (Ofsted, November 2012). This publication was the first collection and release of this data by Ofsted. ‘Enquiries’ in this context refers to telephone contact with a local authority or voluntary adoption agency; some enquiries may be duplicated to more than one agency. ‘Applications’ refers to actual submission of an application to be approved to adopt.

<sup>156</sup> Q 199

at Barnardo's, explained how adopters were not always aware of the choice available to them:

"It is clear that most adopters are not aware of the proliferation of different agencies to whom they could apply. If they apply to their local authority and that local authority only adopts 10 or so children each year ... it is not in that local authority's interest to invest in assessing that family. The authority will actually dissuade some people from coming forward to be adopters because they do not match its immediate needs."<sup>157</sup>

142. Barnardo's voiced concerns that many potential adopters were likely to be 'lost' at the initial enquiry stage:

"Whilst some of these enquiries will be turned away appropriately, there are also many that might have continued to the assessment process, if they had received the appropriate support."<sup>158</sup>

143. We received further evidence of local authorities turning prospective adopters away "without really looking at what their abilities and capabilities are."<sup>159</sup> We were told that a lot of people are "lost to domestic adoption" at that point because the response of their local authority is unwelcoming;<sup>160</sup> some go on to pursue adoption of children from overseas instead. This is of particular concern because these adopters could have provided homes to children currently in care in England.

*The benefits of consortia and local authority joint working*

144. Some local authorities are members of adoption consortia. These provide a forum through which local authorities can match children with prospective adopters more quickly, by allowing the local authority to access the pool of approved adopters registered with neighbouring councils. The consortia are often operated on a regional basis, such as Adoption 22 (covering the north-west) and the Yorkshire Adoption Consortium. We heard evidence about the work of the South West Consortium in helping to facilitate placements for children in an extensive region stretching from Bournemouth to Cornwall.<sup>161</sup> Some consortia also collaborate on recruitment and training. Local authorities generally contribute a small amount of funding each year to cover the overheads of the consortium.
145. Some smaller local authorities have started to move beyond the consortium approach to create more formal shared services. We received written evidence from the Tri-borough<sup>162</sup> adoption and fostering service in west London, and from the WWiSH Partnership, which consists of Warrington, Wigan and St Helens Councils. Whilst there are differences in the approach taken by these two partnerships, the common feature is that they have merged their adoption teams across local authority boundaries, co-locating their workforces and sharing management structures.

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<sup>157</sup> Q 193

<sup>158</sup> Barnardo's, written evidence

<sup>159</sup> Q 416

<sup>160</sup> *ibid.*

<sup>161</sup> QQ 280–282

<sup>162</sup> London Borough of Hammersmith and Fulham, Royal Borough of Kensington and Chelsea and Westminster City Council

146. The initial results from this approach have been promising. The Tri-borough partnership “has enabled better matching and offered a wider range of adopters for those children coming into care.”<sup>163</sup> The WWiSH partnership has increased significantly the number of prospective adopters approved since combining services.<sup>164</sup>
147. Both of these partnerships have, however, encountered some difficulties during the set-up phase. These included difficulties in moving employees into a shared service, resulting in staff being co-located and undertaking the same work whilst employed on different salary structures and differing terms and conditions.<sup>165</sup> Problems have also been encountered with inspection: registration with Ofsted had been lengthy because no process was in place for a shared service, and the partnerships were each subject to three inspections by Ofsted, rather than one ‘joined-up’ inspection.<sup>166</sup>
148. We put these concerns to the Minister. He suggested that consideration could be given to ensuring better recognition of joint services within the inspection regime. He also suggested that thought might be given to how the adoption scorecard could report the performance of shared services.<sup>167</sup> We believe it is essential that performance and monitoring systems reflect the reality of service delivery on the ground.
149. **The fragmentation of adopter recruitment and the small scale of some local authority operations can result in prospective adopters being turned away by their local authority, even though there are children waiting for adoption in other areas. We consider that this position is unacceptable, given the shortage of adopters.**
150. **We recommend that a greater number of councils should move towards joint working and integrated management of adoption services, including recruitment, as has already been achieved by some smaller local authorities. This will help to address the systemic disincentives to greater adopter recruitment and speedier matching.**
151. **We recommend that the Government should encourage and facilitate further joint working by:**
- **Developing a single Ofsted inspection for a unified service, rather than separate inspections of each local authority;**
  - **Publishing joint scorecard assessments;**
  - **Issuing guidance on employment law to facilitate the merging of services.**

*Government proposals for structural reform*

152. In seeking to address the problems inherent in the current structure of adoption services the Government published, in January 2013, proposals to reform the system of adopter recruitment. The intention was to move toward

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<sup>163</sup> Tri-borough Partnership, supplementary written evidence

<sup>164</sup> WWiSH Partnership, written evidence

<sup>165</sup> Tri-borough Partnership, supplementary written evidence; WWiSH partnership, written evidence

<sup>166</sup> *ibid.*

<sup>167</sup> QQ 808–809

a system where there are fewer organisations recruiting and assessing adopters, with most operating at a much greater scale.<sup>168</sup>

153. The Children and Families Bill, published in February 2013, includes a clause that would give the Secretary of State the power to require some, or all, local authorities to outsource adopter recruitment and assessment. Provision of adopter recruitment would, instead, be met by voluntary agencies or services ‘spun out’ from local authorities to become independent providers. The Government recognised that this was “a radical step”, and would consider “progress towards systemic reform made by local authorities themselves before making the decision to use such a power.”<sup>169</sup> The Government invited representative bodies from the sector to submit alternative proposals by the end of February 2013.
154. We argued in paragraph 76 that adoption needs to be integrated fully into child protection; we also supported the revised Ofsted reporting regime with its aim to promote integrated working between local authority teams providing services for looked-after children. We note some concerns that outsourcing adopter recruitment might lead to adoption services being further isolated from other services for looked-after children.
155. **The Government is proposing to give the Secretary of State the power to direct local authorities to outsource adopter recruitment. This would constitute a significant reform of adopter recruitment in England. We understand and share the concerns of the Government about the fragmentation of adopter recruitment, and the national shortage of adopters to which this contributes. We therefore urge local authorities and partners to work together to make progress on these issues, particularly in light of concerns that outsourcing adopter recruitment risks isolating adoption from other services for looked-after children. We strongly encourage the Government to allow sufficient time for the sector to develop viable and achievable alternative proposals, before using the new power.**
156. The new National Adoption Gateway is also intended to provide part of the solution to the fragmentation of adopter recruitment. In the *Action Plan for Adoption*, the Government suggested that “a new national gateway could dramatically improve the experience of those who enquire about adoption.”<sup>170</sup> More than 25,000 telephone enquiries about adoption were made to local authorities and voluntary adoption agencies in the year to March 2012; but only 4,145 applications to adopt were submitted in the same period.<sup>171</sup> The *Action Plan for Adoption* suggested that the gateway “would make sure those interested in adoption knew they were not obliged to adopt through their local authority, and [would] help them to choose the right agency for them in their local area.”<sup>172</sup>
157. The National Adoption Gateway was launched on 11 January 2013. It is provided by a partnership of Coram, Coram Children’s Legal Centre and Adoption UK. The gateway consists of a website and a telephone service

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<sup>168</sup> *Further Action on Adoption, op. cit.*, paragraph 42

<sup>169</sup> Letter to the Chairman from Edward Timpson MP, 23rd January 2013, see Appendix 6

<sup>170</sup> *Action Plan for Adoption, op. cit.*

<sup>171</sup> Official Statistics Release: Adoption quality assurance, *op. cit.*

<sup>172</sup> *Action Plan for Adoption, op. cit.*

through which those interested in becoming adopters can seek out independent advice. A National Recruitment Forum, with representation from CVAA and the ADCS, has also been established to improve the coordination and effectiveness of recruitment activity; we welcome this step.

158. The proposal for a national gateway was universally welcomed in evidence.<sup>173</sup> Matt Dunkley, of the ADCS, explained how adoption ‘marketing’ often took place solely in adoption week, and hoped that the gateway might offer a more sustained opportunity to raise the profile of adoption. Some witnesses suggested that, in time, the gateway might play a more substantive role in the adoption process, including the provision of complaints handling and quality assurance functions.<sup>174</sup>
159. We welcome the gateway, and hope that it improves the service provided to those enquiring about adoption. We believe that there is the potential for the gateway to offer services beyond signposting and information. The gateway could, for example, make direct referrals to adoption agencies on behalf of those who are interested in becoming adopters.
160. **We support the establishment of the National Adoption Gateway as a first port of call for anyone considering adoption. Delivered properly, the gateway offers the potential to increase the number of adopters coming forward, which will be vital if the Government is to meet its aim of increasing the overall number of adoptions.**

### Approving adopters more quickly

161. We were told that “applicants find the process time consuming, intrusive and frustrating. There is a perception that the assessments just take too long.”<sup>175</sup> We heard that the length of the approval process led to some applicants dropping out.<sup>176</sup> The process should, of course, be a rigorous one, and those who are to adopt children from care should have had their abilities fully tested. At present, around 54% of adoption applicants are approved or refused within 8 months of their initial application.<sup>177</sup> Some adopters, however, wait up to two years for a decision.<sup>178</sup>
162. The Government has proposed a new six-month target for assessing and approving adopters.<sup>179</sup> The proposed reforms will comprise a two month initial training and preparation stage, and a four month assessment stage. All required checks and references will be completed during stage one.
163. The CVAA believed that this faster process would increase the number of adopters coming forward.<sup>180</sup> They also noted, however, that “increased enquiries and applicants require increased resourcing in adoption

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<sup>173</sup> Q 180, Q 216, Q 291, Q 356, Q 438; written evidence from Coram and Local Government Association

<sup>174</sup> QQ 320–321

<sup>175</sup> Alex Verdan QC, written evidence

<sup>176</sup> BASW, written evidence

<sup>177</sup> Official Statistics Release: Adoption quality assurance, *op. cit.*

<sup>178</sup> *Adoption and Fostering: Tackling Delay*, Department for Education, September 2012

<sup>179</sup> *ibid.*

<sup>180</sup> CVAA, written evidence

agencies.”<sup>181</sup> The ADCS welcomed proposals for making the process faster “without sacrificing rigour.”<sup>182</sup>

164. There were, however, concerns that a six-month limit might be too short for some prospective adopters.<sup>183</sup> It was felt that potential adopters needed time to understand the needs of children within the care system, and should not be rushed into making life-changing decisions.
165. There is recognition of this within the government’s proposals, with the potential for adopters to take a ‘break’ of up to six months between stages one and two, and also for stage two to be extended by a further two months if this is the wish of the adopters. We consider this sufficient to allow potential adopters time to make a fully informed decision.
166. **We support the government’s proposals for speeding up the assessment and approvals process for adopters. We believe that the opportunity for an applicant-initiated break during the process will provide suitable time for reflection. A faster process will allow children to be provided with new parents more quickly; it may also help to retain some adopters who, at present, drop out of the approval process.**
167. The Government has also proposed a fast-track procedure for previous adopters and for approved foster carers wishing to adopt a child in their care. Previous adopters who have adopted in a court in England or Wales, after having been approved under the Adoption Agencies Regulations 2005, will receive a tailored assessment focusing on their capacity to adopt an additional child and any significant changes in their circumstances. Any necessary training will be offered at the same time. The Committee heard widespread support for this proposal.<sup>184</sup>
168. **We support the Government’s proposal for a fast track procedure for previous adopters and approved foster carers. Those who have been approved for adoption should not have to repeat the same assessments when looking to adopt for a second time. They should be subject to an abridged approval process which focuses on their capacity to adopt an additional child and an assessment of any significant changes in their circumstances.**

### **Improving the matching process**

#### *Sequential family finding and the use of voluntary agencies*

169. The current structure of adoption services gives rise to processes of family finding that increase delay for the child. This is, in large part, a result of the system of fees that operates when local authorities place a child with a family that has been recruited by a different adoption agency.
170. If local authorities place a child with an adopter they themselves have recruited then no fee applies. If they choose to place the child with a family

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<sup>181</sup> *ibid.*

<sup>182</sup> ADCS, written evidence

<sup>183</sup> Written evidence from Stephen Bashford, Bradford Metropolitan District Council, Cambridgeshire County Council, Warwickshire County Council

<sup>184</sup> Q 254; written evidence from BASW and Collette Anne Ibbotson

approved by another local authority, a fee must be paid to compensate that authority for the investment they have made in assessing the adopters. This currently stands at just over £13,000. When a local authority places a child with an adoptive family recruited from a voluntary agency a more substantial fee must be paid. This is often known as the ‘inter-agency fee’, and currently stands at £27,000.<sup>185</sup>

171. As a result of the financial disincentive inherent in the structure, many local authorities engage in ‘sequential family finding’. They first seek a match amongst their own pool of adopters, then amongst neighbouring authorities and finally look to voluntary adoption agencies. Pursuing these three options in sequence rather than in parallel builds in more delay for the child. As Coram put it to us: “there is an uneven playing field in relation to inter-agency fees” which leads to a “perverse incentive to delay.”<sup>186</sup> Professor Julie Selwyn agreed.<sup>187</sup> Recent research at the University of Bristol, cited by BAAF, has highlighted that local authority calculations of their own costs are not always correct. The research suggested “that the cost to a local authority of preparing and approving an adopter is more than the inter-agency fee charged by voluntary agencies, and that faster movement out of care and into an adoptive placement makes financial savings for the local authority.”<sup>188</sup>
172. Reducing delay for children is the main incentive to improve the use of voluntary agencies by local authorities, but there are other reasons why extending their use would be beneficial. Voluntary sector providers often have significant expertise in finding matches for harder to place children. Barnardo’s explained that until relatively recently “children with disabilities, for example, were never considered for adoption. That was an innovation from a voluntary adoption agency which decided to try to place children with disabilities.”<sup>189</sup>
173. Voluntary agencies also have a particularly strong track record of recruiting non-white adopters: recent figures from the CVAA state that 31% of adopters approved by voluntary agencies in the last year were from BME communities.<sup>190</sup> The difficulties and delays encountered by some BME children in the care system are well documented<sup>191</sup>; voluntary agencies therefore play a major role in meeting the needs of these children.
174. A number of potential remedies to the problem of the inter-agency fee were suggested. These included a central pool from which the fee could be paid,<sup>192</sup> a ‘bounty fee’ paid to agencies for the recruitment of an adopter, rather than a match,<sup>193</sup> and proposals to equalise the fees paid to a local authority with those paid to a voluntary agency. The ADCS agreed that the issue of the inter-agency fee needed to be addressed.<sup>194</sup> The Minister suggested that

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<sup>185</sup> This figure is set nationally, through the Board of Trustees of the CVAA.

<sup>186</sup> Coram, written evidence

<sup>187</sup> Q 741

<sup>188</sup> BAAF, written evidence

<sup>189</sup> Q 199

<sup>190</sup> Sector Performance Report, *op. cit.*

<sup>191</sup> Written evidence from Adoption Focus, After Adoption, Bradford Metropolitan District Council, Jim Clifford, Coram

<sup>192</sup> Q 98; BAAF, written evidence

<sup>193</sup> Q 574

<sup>194</sup> Q 561

positive discussions regarding the equalisation of these fees had already been held and that it was “at the behest of the LGA to bring that equalisation of fees about.”<sup>195</sup>

175. In *Further Action on Adoption* the Government stated that “swift progress on the levelling of the inter-agency fee” would need to form “part of any alternative proposals put forward by the sector.”<sup>196</sup> In the same document, the Government explained that £50 million of the Adoption Reform Grant will be ring-fenced to “help local authorities address structural problems with adopter recruitment” and “provide one-off funding to support local authorities in the equalisation of the inter-agency fee”.<sup>197</sup> We welcome this short-term measure, and hope that it can go some way to provoke the changes needed to secure benefits in the longer-term.
176. **We believe that local authorities should explore as early as possible all potentially appropriate matches for children in care, including those provided by voluntary agencies. We recognise the important role that voluntary adoption agencies play in finding families for harder-to-place children.**
177. **The operation of the inter-agency fee presents a barrier to greater involvement of voluntary agencies in providing adoption services, and leads to unnecessary delay in placing children. We welcome the discussions that are taking place on this matter, and urge the Government, local authorities and the voluntary sector to reach an agreement which removes the financial disincentives currently present within the system. We encourage the Local Government Association to facilitate discussion amongst its members on the equalisation of fees.**

### *The National Adoption Register*

178. Section 125 of the Adoption and Children Act 2002 provided for the establishment of the National Adoption Register. The register is operated by BAAF, on behalf of the Department for Education and the Welsh Assembly Government. It exists to match children in one local authority area with adopters who are waiting for a child in another area. There were over 2,500 children on the National Adoption Register for England and Wales in September 2012; 351 children were matched through the register in 2011–12.<sup>198</sup>
179. We received evidence to suggest that the register was not currently operating to its full potential. CVAA suggested there was sometimes unwillingness on the part of local authorities to refer children to the register. The ADCS, whilst highlighting that some authorities made active use of the register, acknowledged that some might ‘hold on’ to adopters.<sup>199</sup> Officials from the Department for Education supported that view.<sup>200</sup>

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<sup>195</sup> Q 808

<sup>196</sup> *Further Action on Adoption, op. cit.*, paragraph 39

<sup>197</sup> *ibid*, paragraph 66

<sup>198</sup> National Adoption Register website: [www.adoptionregister.org.uk](http://www.adoptionregister.org.uk)

<sup>199</sup> Q 549

<sup>200</sup> Q 52

180. Under the statutory guidance, adoption agencies are required to refer prospective adopters to the register either at the point at which they are approved, or three months after approval, if no local match is actively being considered. Prospective adopters may choose to refer themselves to the register three months after approval.<sup>201</sup> Adoption agencies are required to refer children to the register when they are not actively considering a local match for them; referrals can be made either at the point at which the decision has been made that adoption is in a child's best interests, or 3 months after the decision during which time the agency has unsuccessfully sought a local or consortium match.<sup>202</sup>
181. Officials from the Department for Education told us, in June 2012, that it was proposed to move the requirements contained within the Statutory Guidance on Adoption into regulations, and thereby address current concerns about the use of the register.<sup>203</sup> This proposal was subject to consultation in October 2012<sup>204</sup>; the outcome of the consultation has not yet been published.
182. **We support the proposal to move existing requirements relating to referral of children and adopters to the National Adoption Register from statutory guidance into regulations. We would, however, stress the importance of avoiding delay. We therefore recommend that adoption agencies are required to make referrals as soon as possible: once an adoption decision has been made for a child, or once an adopter has been approved; as long as no local match is actively being considered. Three months should be considered the very latest point at which to refer.**
183. Clause 6 of the Children and Families Bill proposes changes to the register. Subsections 2 and 3 of clause 6 would enable details of looked-after children to be included in the register when the local authority is considering adoption, but have not yet formally decided that the child ought to be placed for adoption. This change is in line with the proposed new duty to consider fostering for adoption placements for children for whom an adoption decision has not yet been made (Clause 1); we expressed our views on this in paragraphs 81–87.
184. Subsection 4 of Clause 6 provides for regulations which would allow prospective adopters who are suitable to adopt a child<sup>205</sup> to search the register. This is intended to give prospective adopters a more active role in identifying possible matches with children, subject to appropriate safeguards. The regulations may restrict access to certain parts of the register, or to specified content on the register, and they may set terms and conditions for access to the register.<sup>206</sup>
185. We are not in a position to comment on clause 6, as the Bill was only published on 5 February, and the proposals contained therein were not

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<sup>201</sup> Statutory Guidance on Adoption, Department for Education, February 2011, chapter 3, paragraph 64.

<sup>202</sup> *ibid.*, chapter 2, paragraph 70

<sup>203</sup> Q 52

<sup>204</sup> *Adoption and Fostering: Tackling Delay*, *op. cit.*

<sup>205</sup> A prospective adopter is suitable to adopt a child if an adoption agency is satisfied that they are suitable to have a child placed with them for adoption, under Section 131 of the Adoption and Children Act 2002.

<sup>206</sup> Explanatory notes to the Children and Families Bill, paragraph 64

included in earlier documents. We therefore have no evidence on them. We would be concerned, however, to ensure that appropriate safeguards are built into the proposed regulations giving prospective adopters access to the register, in order to protect children on the register from identification.

186. The register has previously been used by BAAF to run successful exchange days. Children from the register are profiled and approved adopters are invited to a local event to see these profiles, speak with social workers and, if appropriate, express an interest in adopting a particular child. A pilot project, undertaken by BAAF and the East Midlands Adoption Consortium, has expanded this approach through the use of placement activity days.<sup>207</sup> These events bring children, carers, social workers and prospective adopters together for a day of play and art activities. A number of children have found appropriate matches as a result of the pilot.
187. The Government has welcomed this work and wishes to see such approaches used more widely, giving prospective adopters a stronger role in initiating matches with children. To this end, *Further Action on Adoption* states that the Government want “to see adoption activity days being held regularly and in all parts of the country.”<sup>208</sup> We welcome these proposals, and hope that they enhance the utility of the register and accelerate the matching process.

### Monitoring performance

188. Ofsted acts as a regulator of voluntary adoption agencies, who must be registered with Ofsted to conduct their business. Ofsted can take action against voluntary agencies if they fail to meet requirements. John Goldup, Deputy Chief Inspector at Ofsted, suggested that these powers were rarely used, and that the voluntary agencies were a “high performing sector.”<sup>209</sup>
189. Ofsted also inspects the adoption services provided by local authorities, but it does not regulate them; it has no powers of enforcement to take action should under-performance be identified. Those powers sit with the Department for Education and the Minister; they are set out in Section 14 of the Adoption and Children Act 2002. Section 14(1) states that, where the Minister is satisfied that a local authority has failed to comply with their adoption duties, an order can be made which declares the local authority to be in default in respect of those duties. The order must give the Minister’s reasons for making it and may contain directions setting out the steps to be taken to discharge the duties during the time in which the order is in operation. Tim Loughton MP, the former Minister for Children and Families, suggested that the use of these existing powers “probably needs to happen to set a precedent and to send a very clear message that [adoption] is not something that you can dawdle on or not take seriously.”<sup>210</sup>
190. In the past, Ofsted conducted separate inspections of local authority fostering and adoption services. As referred to in paragraph 75, from April 2013, a new approach will be pursued, in which adoption services will be assessed as part of the wider services provided to looked-after children. Ofsted explained that the proposals would prevent adoption being judged in isolation, with the

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<sup>207</sup> BAAF, written evidence

<sup>208</sup> *Further Action on Adoption*, *op. cit.*, paragraph 87

<sup>209</sup> Q 498

<sup>210</sup> Q 571

key question posed by inspectors being: “how effective is the local authority in achieving permanence for every single child in its care.”<sup>211</sup> We welcome the move to a more cohesive approach to inspection.

191. We heard very little criticism of the work of Ofsted, apart from the issues identified by the Tri-borough and WWiSH partnerships which we highlighted in paragraphs 147 and 151, and which concerned how the inspectorate could take a more constructive approach to the assessment of shared adoption services.
192. A certain level of variation in local authority performance is to be expected, given the different populations, challenges and resource bases of local authorities. The level of variation, however, does appear to us to reflect issues of performance. The latest figures indicate that some local authorities take two and a half years to place a child, while others complete this process in less than 18 months.<sup>212</sup> The Department for Education told us they were “extremely concerned about the variability in the performance...some of that indeed reflects poor performance by individual local authorities.”<sup>213</sup> The variability of performance was acknowledged by other witnesses, including the Local Government Association (LGA) and Nagalro.<sup>214</sup>
193. In May 2012 the Government published adoption scorecards, which are intended to provide an assessment of local authority performance. An update was published in November 2012. The scorecards provide three indicators. The first measures the average time taken from entering care to being placed with an adoptive family. The second measures the average time taken to match a child to an adoptive family, once a court has formally decided that a child should be placed for adoption. The third measures the proportion of children in each local authority waiting longer than the 21 months for adoption.
194. We welcome the government’s focus on the variable performance of local authority adoption services. We believe it is important to have robust indicators of performance. We have heard, however, concerns about the adoption scorecards. The LGA highlighted the fact that some councils were dealing with very small numbers of children, and as a result one particularly delayed case could cause overall performance figures to be distorted.<sup>215</sup> The scorecards also provided no measure of the quality of placement, including the extent of adoption breakdown.<sup>216</sup> Focusing exclusively on speed ignored other factors, such as pursuing placements for children with special needs or sibling groups. Andrew Webb, from the ADCS, described cases from his recent experience where two sibling groups, one of four and another of three siblings, had been placed together in their new adoptive families; finding the right placements for each set of siblings had taken some time: “I would say the delay was absolutely worth every day in those two families’ cases.”<sup>217</sup>
195. Adopt West Mids had the following concerns about the score cards:

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<sup>211</sup> Q 498

<sup>212</sup> *Councils must drive out delays in adoption*, Department for Education press notice, 30 November 2012

<sup>213</sup> Q 5

<sup>214</sup> Written evidence from Local Government Association, Nagalro

<sup>215</sup> Local Government Association, written evidence

<sup>216</sup> Q 520

<sup>217</sup> Q 551

“They miss the subtleties of the content of adoption caseloads, and create incentives which may work against the best outcomes for children. For example, older children with complex needs who take longer to place may not be considered for adoption, due to the impact on the scorecards.”<sup>218</sup>

196. Action for Children shared these concerns: “The introduction of local authority scorecards should not detract from the focus on outcomes for children and must not penalise agencies that are working with the ‘hardest to place’ who we know wait longer to be placed, such as sibling groups. Faster matching and placement of children with adoptive families does not necessarily equate to achieving the best outcomes.”<sup>219</sup> Furthermore, no allowance was made for the role that the courts played in the adoption process, and the delays in placement that could arise within the court process.<sup>220</sup>
197. It is also important that the scorecards are not seen as an end in themselves. The Government has emphasised that the scorecards would be used as “the starting point of a conversation”, rather than as an absolute judgement on a local authority’s adoption performance.<sup>221</sup> We think that this approach is sensible. John Goldup explained how the scorecards could better inform our understanding of performance: “what data is incredibly important for is telling you what questions to ask, not what the answers should be. In terms of how the Government and the Department for Education have actually used the adoption scorecards, I think that has very much been their approach.”<sup>222</sup>
198. **We believe that the length of time many children wait to be adopted in some local authority adoption services is unacceptable. The Government must take quicker and firmer action against repeated poor performance identified through monitoring processes; where appropriate, using Section 14 of the Adoption and Children Act 2002.**
199. **We recommend that more thought should be given to the design of these monitoring processes. The adoption scorecards should be revised to provide a greater level of contextual information, and to recognise fully the complexity of a local authority’s care population. Measures of speed and timeliness should recognise the performance of the courts and legal processes, as well as that of local authorities.**

### Measuring outcomes of adoption

200. Although monitoring of processes in adoption services is now well embedded, it appears that insufficient data exist to measure properly the success of adoptive placements. The Government acknowledged this in the *Action Plan for Adoption*, which we referred to in paragraph 23.
201. We asked the Department for Education for information on adoption breakdown and were told:

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<sup>218</sup> Adopt WestMids, written evidence

<sup>219</sup> Action for Children, written evidence

<sup>220</sup> Local Government Association, written evidence

<sup>221</sup> Q 40

<sup>222</sup> Q 500

“There is not currently a regular and consistent national measure of adoption breakdowns; it is not possible to say how many breakdowns occurred in the last five years. Martin Narey found that figures from different studies ranged from 3% to 30%. Julie Selwyn studied 130 children approved for adoption in the early 1990s between the ages of three and eleven. Follow-up when aged 7–21 showed that, of the 74% placed for adoption, 11% had disrupted before the Adoption Order was granted and 5% afterwards. Experts generally agree that the higher figures are for hard to place groups—breakdown is more likely where children are older or have more complex needs. Studies of older children placed for adoption show disruption rates of about 20%, with a range of between 10% and 50% depending on the sample and rising with age of placement. Martin Narey concluded that rates for over 5s were around 25%; 1 to 5s 10%; and under 1s 3%.”<sup>223</sup>

202. We note that as there is no national collection of data on adoption breakdown there is no agreed definition of breakdown; figures presented in the studies listed above may therefore rely on different criteria.
203. The lack of data is of particular concern, given the Government’s focus on adoption policy and the desire to see more children being adopted more quickly from the care system. We note that the House of Commons Justice Committee, in two recent reports, has raised concerns about the lack of available data on the family justice system, especially in light of the proposed reforms; we share those concerns.<sup>224</sup>
204. We asked witnesses about the lack of national data on adoption breakdown. BASW argued that much better data collection on adoption breakdown was needed, both nationally and locally, to enhance understanding of the causes of breakdown, with a view to reducing its likelihood.<sup>225</sup> Debbie Jones, President of the ADCS, explained that “adoption breakdown is often not construed as adoption breakdown.”<sup>226</sup> Adoptive families are considered and assessed as any other family would be; their history of adoption is therefore not recognised when data is recorded.
205. The Government collects data on looked-after children from local authorities each year, in a return that is known as SSSDA 903. We were told that from 2013 this monitoring exercise would record if a child entering care had ever been adopted. We welcome this development; further improvements to monitoring are, however, required.
206. **The most important measure of performance is the outcome. Insufficient data exist to measure properly the success of adoption placements. More should be done to measure rates of, and reasons for, adoption breakdown. We recommend that the Government work with the Local Government Association and Association of Directors of Children’s Services to consider how this could more effectively be monitored.**

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<sup>223</sup> Memorandum from the Department for Education, October 2012, see Appendix 5

<sup>224</sup> House of Commons Justice Committee, 4th Report (2012–13): *Pre-legislative scrutiny of the Children and Families Bill* (HC 739) and also 6th Report (2010–12): *Operation of the Family Courts*

<sup>225</sup> BASW, written evidence

<sup>226</sup> Q 565

## CHAPTER 7: POST-ADOPTION SUPPORT

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### The case for post-adoption support

207. The Adoption and Children Act 2002 introduced an entitlement for adoptive parents and their children to request and receive an assessment of their adoption support needs.<sup>227</sup> However, there is no requirement for those needs, once assessed, to be met. Provision of support is at the discretion of local authorities and thus varies considerably. The evidence we have received almost universally calls for an entitlement to support to be introduced.<sup>228</sup>
208. As outlined in paragraphs 16 and 20, the nature of adoption has changed over recent decades. Most children are now adopted from care and often have complex needs due to their early life experiences. The impact of such experiences will vary depending upon the age of the child, the length of exposure to maltreatment and the severity of abuse. The effects may be compounded by experiences in the care system, where delay and frequent placement moves can leave children bewildered and mistrusting of adults.
209. The formation of consistent relationships with their new adoptive parents, allowing them to form new attachments, was described by mental health practitioners as “the ultimate aim” of adoption for these children.”<sup>229</sup> Adoption alone, however, did not address these problems. Lynn Charlton, Chief Executive of After Adoption explained that children’s complex histories and associated needs did not “get wiped out with the making of an adoption order.”<sup>230</sup>
210. Adoptive parents could struggle to deal with challenging behaviour, which might not become apparent until some time after the adoption had taken place. Difficulties often emerged at times of transition in a child’s life, such as moving from one school to another or entering adolescence. There is evidence that some adoptive parents were reluctant to seek help when problems first emerged because they were afraid of being judged or perceived as failing.<sup>231</sup>
211. The availability of support was considered critical for sustaining adoption placements and this was especially the case for disabled children, older children and children with complex behavioural needs.<sup>232</sup> Failing to provide the necessary post-adoption support services risked a family breakdown and the possible return to care of an already damaged child.
212. Concerns over the cost of providing post-adoption support needed to be balanced against the wider cost of a failed adoption, including the cost of accommodating a child into adulthood.<sup>233</sup> The Department for Education indicated that a child who had experienced a breakdown may have additional

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<sup>227</sup> Adoption and Children Act 2002, section 4

<sup>228</sup> Oral evidence from Adoption Matters Northwest, After Adoption, BAAF, Intercountry Adoption Centre, Tim Loughton MP, PAC; written evidence from BASW, Nagalro

<sup>229</sup> National Adoption and Fostering Service, South London and Maudsley Hospital

<sup>230</sup> Q 451

<sup>231</sup> Q 129

<sup>232</sup> Barnardo’s, written evidence. Parenting courses, which were recommended by both After Adoption and PAC, were also shown to have a positive impact on stability of placement.

<sup>233</sup> Q 587

support needs and the cost of accommodating a child post-breakdown might therefore be far greater than for a child with no experience of breakdown.<sup>234</sup>

213. There is evidence that children who grow up in care are more likely to join the population that is not in education, employment or training, therefore presenting an additional future burden to the state in terms of benefits, and possibly health and criminal justice services.<sup>235</sup> Adoption provides lifetime gains in enhanced employability and a reduced burden of state support in both childhood and adulthood.<sup>236</sup>
214. A good case can, therefore, be made for investing to save with post-adoption support. We agree with Tim Loughton MP, that “adoption support services are greatly underestimated and it is a false economy not properly to invest in them.”<sup>237</sup> The “ultimate cost” is when an adoption fails.<sup>238</sup>
215. **Children adopted from care have a range of needs due to their early life experiences which are not resolved simply by being adopted. As a result adoptive parents face challenges that many other families do not. Adoptive parents perform a vital social function in caring for very vulnerable and often damaged children, and thereby save the state money.**
216. **The failure of adoptive placements can be extremely expensive for local authorities in the short and long term, as well as causing significant harm to the children concerned. Well-targeted support services have the potential to ensure placement stability and to avoid these costs.**
217. **We believe that adoptive parents should receive greater and more consistent and continuing support. Calculations of cost need to take into account the contribution which support services make to preventing adoption breakdown and the associated costs. To support this, we recommend the Government commission an independent cost-benefit analysis setting out the cost of breakdown against the cost of providing support.**
218. Post-adoption support was also considered critical to attracting more adopters to come forward: “where there is a guarantee of adoption support available this significantly increases the enquiries from prospective adoptive parents.”<sup>239</sup> Many witnesses cited the lack of support as a reason for prospective adopters dropping out during the process.<sup>240</sup> We welcome the Government’s proposal to make information about post-adoption support available through the National Gateway, which may help to address this issue.

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<sup>234</sup> The Department cited research which estimated the annual cost of a stable foster placement as £23k; whereas an unstable year in care, with various placements and periods in residential care, would cost £56k per annum; see Appendix 5.

<sup>235</sup> Jim Clifford, written evidence

<sup>236</sup> A 2011 study estimated the socio-economic gain secured by permanence in adoption at £800,000 per child adopted (Clifford, J., *PACT Domestic Adoption and Fostering: SROI Evaluation*, PACT and Baker Tilly, 2011).

<sup>237</sup> Q 587

<sup>238</sup> *ibid.*

<sup>239</sup> After Adoption, written evidence

<sup>240</sup> Q 107

219. **In addition to enhancing placement security the provision of post-adoption support has been shown to increase the number of adopters coming forward. We believe that the availability of such support would greatly assist with meeting the Government's objective of increasing significantly the number of prospective adopters.**

### **The needs of adopted children**

220. It is difficult to establish with any certainty the level of support generally required by adopted children: there is no central data collection of the levels of need assessed by local authorities, or indeed of the services offered. We asked the Department for Education for assistance but no such figures were available.
221. The evidence we have received from specialist post-adoption support agencies demonstrated that not all children will have the same needs, and that their needs will change over time.<sup>241</sup> There was widespread support for the notion that adopted children should have priority access to Children and Adolescent Mental Health Services (CAMHS). It is, however, worth noting that both After Adoption and PAC reported incidents of adoptive parents experiencing attitudes from CAMHS practitioners which were not considered "adoption-sensitive."<sup>242</sup>
222. The Government promised, in January 2013, to improve access to services by commissioning new NICE guidelines on attachment, raising awareness amongst health professionals of the behavioural issues that some adopted children face, and encouraging commissioners of services, including CAMHS, to recognise and address the needs of adopted children. We welcome these proposed measures.
223. Education was a key area for support identified by the adoptive parents that we spoke to.<sup>243</sup> In many cases parents had battled for school places for their children, becoming frustrated with bureaucracy and a general failure to understand the special needs of adopted children. In one case a child had been out of school for a significant period of time due to being adopted from a different local authority area. We understand that under the new School Admissions Code adopted children now have priority access to schools, just as children in care do.<sup>244</sup> This is to be welcomed.
224. The adopted children whom we met also referred to a need for more support with regard to their schooling. Many had been subjected to bullying on the grounds of being adopted: "People say 'your parents didn't want you and that's why you're adopted'."<sup>245</sup> Many felt that teachers did not take this seriously, or understand the issues likely to be faced by an adopted child. There were disturbing anecdotes of adopted children being criticised by their teacher for being unable to complete the task that had been set for them:

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<sup>241</sup> Q 127, Q 148

<sup>242</sup> Q 129; After Adoption, written evidence

<sup>243</sup> A summary note of the discussion with adoptive parents from 4 December 2012 can be found at [www.parliament.uk/business/committees/committees-a-z/lords-select/adoption-legislation-committee/publications/](http://www.parliament.uk/business/committees/committees-a-z/lords-select/adoption-legislation-committee/publications/)

<sup>244</sup> School Admissions Code, Department for Education, February 2012. This is statutory guidance covering school admission arrangements in the school year 2013/14.

<sup>245</sup> Summary note of discussion with adoptive parents, *op.cit.*

creating a family tree. Many of the children felt that teachers and pupils needed to be educated about adoption and its effects.<sup>246</sup>

225. **We welcome the new School Admissions Code which gives adopted children, along with children in care, priority access to school places from September 2013. In order to safeguard further the wellbeing of adopted children we recommend that the Government extends the current duty on schools under the Children and Young Persons Act 2008, to appoint a designated teacher to promote the educational achievement of looked-after children, to include adopted children, with a specific remit to educate teachers and children about adoption and its effects.**

*The Government proposals*

226. We noted the Government's proposal for post-adoption support, published on 24 December 2012, as part of which an Adoption Passport will be made available. This will outline current legal entitlements, such as the right to have needs assessed; priority access to schools from 2013; and free early years education for two year olds from 2014.
227. **We welcome the promised introduction of professional learning material on issues faced by adopted children, and we urge the Government to extend this to all staff working in schools in order to raise awareness amongst teachers and children.**
228. There is also a commitment to provide prospective adopters with new learning materials on therapeutic parenting skills and the common issues faced by adopted children. In light of the particular needs of children adopted from care, highlighted in paragraphs 208–210, this may not be adequate for some families who may require more focused and specialised support.
229. The Children and Families Bill, published on 5 February 2013, includes a clause giving adoptive parents (and those who have been adopted) the opportunity to receive a personal budget to meet their support needs. The clause does not create a duty on local authorities to provide post-adoption support; the section applies only where “a local authority in England decide to provide any adoption support services to a person.”<sup>247</sup> We welcome any opportunity for adopters to play a greater role in selecting and securing the services that they believe are required for their child. We do not, however, believe that this measure alone will meet the support needs that we consistently heard about in evidence.
230. As detailed in paragraph 207, the Adoption and Children Act 2002 introduced a duty upon local authorities to assess the need for post-adoption support, but did not introduce a duty to provide services to meet those needs once assessed. This was consistently identified as a shortcoming of the Act; many witnesses suggested that a statutory duty to provide post-adoption support services was also required.<sup>248</sup>

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<sup>246</sup> *ibid.*

<sup>247</sup> Children and Families Bill, clause 4 section 4A(1)(a)

<sup>248</sup> Oral evidence from Adoption Matters Northwest, After Adoption, BAAF, Intercountry Adoption Centre, Tim Loughton MP, PAC; written evidence from BASW, Nagalro

231. We were told that such a duty could not apply solely to local authorities; the LGA argued that “the question of post-adoption support should not be restricted to only local government, but [should] also give consideration to the role of other public services such as Child and Adolescent Mental Health Services and schools.”<sup>249</sup> We agree that the provision and financing of post-adoption support should not be seen as a matter solely for local authorities.
232. Mark Rogers, Chief Executive of Solihull Metropolitan Borough Council, highlighted the partnership work of Children’s Trust Boards<sup>250</sup>, underpinned by a statutory ‘duty to cooperate’ contained in section 10 of the Children Act 2004. Mr Rogers suggested that local authorities and clinical commissioning groups should be subject to a similar ‘duty to cooperate’ in the provision of post-adoption support.<sup>251</sup>
233. **We welcome the Government’s proposals for post-adoption support, but we regret that they fall short of a statutory duty to provide the support needs as assessed. There should be a statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support; this should include appropriate access to health, education, and Children and Adolescent Mental Health Services, and other services as necessary. These entitlements should form part of the Adoption Passport.**

### Support for children subject to Special Guardianship Orders and kinship care placements

234. Adoption is not right for all children in the care system; we have already discussed the variety of permanence options available and the importance of choosing the right route to permanence for individual children. Children in Special Guardianships and kinship care are also likely to have complex needs due to their early life experiences.
235. Special guardians and kinship carers receive little of the training and preparation that is given to prospective adopters; they also receive few of the benefits and financial support arrangements that foster carers receive. Several of our witnesses expressed concern that such carers were struggling to meet the needs of the children in their care.<sup>252</sup> Many kinship carers have to give up work in order to care for children because, unlike adopters, they are not entitled to paid leave when a child comes to live with them.<sup>253</sup> The profile of kinship carers and special guardians is older (they are often grandparents<sup>254</sup>) and poorer than the average adopter.<sup>255</sup> In addition, they often have to manage complex contact arrangements, where the birth parent seeking contact may be their own child; a study of special guardians found that 60% were seeking assistance with contact arrangements.<sup>256</sup> A survey by the Kinship Care Alliance found that 68% of respondents who sought help from

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<sup>249</sup> Local Government Association, written evidence

<sup>250</sup> Q 515

<sup>251</sup> QQ 513–515

<sup>252</sup> Written evidence from Alex Verdan QC, Kinship Care Alliance

<sup>253</sup> Q 688

<sup>254</sup> Q 730

<sup>255</sup> Tri-borough Partnership, written evidence

<sup>256</sup> Q 730

their local authority did not receive the services they required.<sup>257</sup> The Family Rights Group summed it up as follows:

“The least able, the most vulnerable and the least articulate are the least likely to be the ones to get the help they need.”<sup>258</sup>

236. Children being cared for by special guardians and kinship carers are as vulnerable as those who are adopted from care. Special guardians and kinship carers are performing a valuable social service, just as adopters do, but often with fewer resources at their disposal, and less preparation and support. The service which they provide saves the state money. The failure of such placements would be extremely expensive in the short and long term.
237. **Children in special guardianship and kinship placements deserve the same support which we recommend for adopted children. We therefore recommend that our proposed statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support should be extended to include formerly looked-after children in other permanent placements, such as special guardianship or kinship care.**

#### Post-adoption support for birth families

238. Under the Adoption and Children Act 2002 the categories of persons entitled to an assessment of their support needs includes the birth parents of any adopted child. As with adopted children and their adoptive families there is no need to provide the services once the needs have been assessed, and provision is therefore patchy.
239. We were told that many birth parents will experience the removal of a child as bereavement. Most birth families needed emotional support to enable them to process what had happened to them.<sup>259</sup> The absence of such support could have a “profound impact on how they might seek to mitigate that pain...so that it is very difficult for them to then function as citizens in our society.”<sup>260</sup>
240. Without the possibility of dealing with feelings of anger and loss, and a proper understanding of how their lives needed to change to be able safely to parent subsequent children, there was a dangerous pattern that emerged:
- “What do people do when they are grieving? They put a substitute there and they have the next child and the next child. That is our experience: there is a cycle of having children; even though, deep down, they must know they are going to lose that child, there is still the inevitability of having one after the other.”<sup>261</sup>
241. The importance of independent provision of support to birth parents was stressed in the evidence. Some local authorities contracted the work out to an adoption services agency, and this was considered beneficial: many birth parents found it traumatic to visit the social services department of their local authority—it may be where they last had contact with their child prior to the

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<sup>257</sup> Q 688

<sup>258</sup> Q 690

<sup>259</sup> Written evidence from Helen Oakwater, PAC

<sup>260</sup> Q 444

<sup>261</sup> Q 125

adoption.<sup>262</sup> And no matter how good the provision of support, when it was delivered in the context of the local authority, parents continued to feel that it was part of the process that had led to their child's removal and they continued to feel judged.<sup>263</sup>

242. There is evidence of the positive impact which counselling can have on the future behaviour of parents who have had children removed. PAC reported on a project working with birth mothers in prison; all of the women on leaving prison had either decided not to have another child, and 12 months later had not, or they had had subsequent children but had been able to change their lives sufficiently to be able to keep them.<sup>264</sup>
243. The role of early intervention to address parental problems, which we considered in paragraphs 61–71, is relevant here. Early intervention programmes aim to prevent the removal of children, where it is safe so to do. Support for birth families after removal is at the other end of the spectrum, where such efforts have failed. But the purpose is the same—to break the cycle which leads to more children being born into families that are not able safely to parent them.<sup>265</sup> Where early intervention has not been effective and the removal of a child has been in that child's best interests, there is very good reason to engage with the birth family to prevent subsequent children from suffering the same fate.
244. **Many parents who have had children removed go on to have subsequent children, who then also become involved with the care system. This adds to the burden placed upon social services and the state. Providing support services to birth families whose children have been removed should be seen as an essential step in breaking the cycle which leads to more children being born into families that are not able safely to parent them.**
245. **We believe that resources invested in birth family support in the short-term will produce savings for the state in the longer term. We therefore recommend that the Government should establish a pilot scheme to provide post-adoption support to birth families across a number of local authority areas to establish the benefits and costs of such provision.**

### **Innovative funding mechanisms**

246. In light of our recommendations concerning post-adoption support, we have considered innovative funding mechanisms, such as social impact bonds or community budgets, as possible vehicles to finance some of the necessary services.
247. A social impact bond is a type of contract in which public sector commissioners pay for an improvement in social outcomes (such as reducing the number of children taken into care, for example). Private investment is used to pay for an intervention, which is delivered by a practitioner with a proven track record. Financial returns are made by the public sector to the investor on the basis of improved social outcomes. Social impact bonds come

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<sup>262</sup> Q 124

<sup>263</sup> Q 444

<sup>264</sup> Q 120

<sup>265</sup> Q 713

in a variety of forms—they may be higher yielding to compensate for higher risks or tying up capital long-term, or they may be lower yielding to reflect lower risks; they may even have tax-relief built in for the investor.

248. A community budget, on the other hand, allows different local public service agencies—local authorities, police, health services, employment and benefit services and others—to work together in a local area, pooling funding and being released from some central government oversight. The intention is to address the needs of particular local service users—such as troubled families with a range of issues addressed by public services—in a more coordinated way. It is believed that such an approach could help to improve overall outcomes whilst also reducing the duplication of activity that currently takes place across different local services.
249. Central to both approaches is a solid evidence base to justify investment. It would be necessary to understand the support services required, the cost of providing those services and to balance those against the cost of adoption breakdown. A crucial figure would be the rate of adoption breakdown, since that would be the means for measuring improvements. As we have discussed in paragraph 201, these figures are not available.
250. While it is difficult to build a robust case for developing innovative financing for post-adoption support without such data, there is an easier case to be made for using service providers with a proven track record for finding adoptive placements. A new social impact bond, entitled ‘It’s all about me’ has just been launched,<sup>266</sup> offering a service for finding adoptive families for children who are generally considered harder to place<sup>267</sup>. This work was acknowledged by the Government in *Further Action on Adoption*.<sup>268</sup>
251. Under the “It’s all about me” scheme, local authorities can choose to approach a voluntary adoption agency from a provider list, including well known agencies with a track record of successfully meeting the needs of harder-to-place children. The service offered includes recruitment, training and support for the families and children involved. The support package is comprehensive, dealing with both practical aspects, such as advocacy on behalf of the families, as well as therapeutic interventions for the child and on-going training and support for the parents in dealing with the issues that arise with harder-to-place children.
252. Local authorities pay a premium for the service compared to the inter-agency fee, but not when compared to the costs of continued foster care, especially as the cost of care for those children who would be considered for the scheme is likely to be at the higher end of the spectrum. The social impact bond is a debt instrument offering a 4% fixed yield, paid quarterly, with capital repaid by year ten.
253. **We believe the recently launched social impact bond for enhanced family finding is an innovative approach to finding homes for the most difficult to place children. It correctly balances the additional cost of the scheme against the cost of keeping children in local**

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<sup>266</sup> This is the result of a collaboration between the Consortium of Voluntary Adoption Agencies and Baker Tilly, an accountancy and business consultancy firm, with input from the Association of Directors of Children’s Services.

<sup>267</sup> Jim Clifford, written evidence

<sup>268</sup> *Further Action on Adoption*, *op. cit.*, paragraph 68

**authority care until they are 18. We invite the Government to follow the progress of this social impact bond with a view to establishing what lessons can be learnt and applied more widely.**

## CHAPTER 8: POST-ADOPTION CONTACT

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254. The Adoption and Children Act 2002 sought to address issues of contact in recognition of the fact children were much older at adoption than had previously been the case, and therefore were more likely to have established links to their birth families. Sections 26 and 27 of the Act place a duty on the court to consider contact arrangements for birth families and their children when making a placement order; section 46 (6) comprises a duty to consider such arrangements when an adoption order is made. The intention is for contact arrangements to be agreed by the parties. If agreement is not possible, an application can be made to the court for a contact order; it is unusual for the court to make such an order, especially against the wishes of adoptive parents.
255. Contact arrangements with birth parents are usually indirect rather than face-to-face.<sup>269</sup> Many families participate in ‘letter-box contact’, once or twice a year, which involves exchanging information between the adoptive family and the birth parents. This contact is usually facilitated by the adoption agency to protect the identity and location of the adoptive family. Direct contact with birth parents is rare; it occurs more often with siblings<sup>270</sup>.
256. The evidence we received did not suggest that change was required to the legislative framework. As with much of the Adoption and Children Act 2002 witnesses had concerns in relation to practice, but not in relation to the legislation. The principal concern was about understanding the purpose of contact. Sue Berelowitz, the Deputy Children’s Commissioner, told us that decisions about contact needed “to be based on what is right for this individual child, rather than blanket decisions being made that this is always the right thing to do.”<sup>271</sup>
257. It was important to remember that contact should be for the benefit of the child, not for the parents or other relatives.<sup>272</sup> The reasons why a child might benefit from contact were spelled out in evidence from After Adoption: “it is not about maintenance of the relationships as they were with the birth family . . . what [children] like is to have some continuity that enables them to integrate the past with the present, and obviously then the future. I think contact can play a very useful role for the child in helping them understand their world and their life history.”<sup>273</sup>
258. Helen Oakwater described the role that facilitated contact could play in assisting a child to “integrate their past, allowing them to form a coherent narrative and more robust sense of self.”<sup>274</sup> Life-story work, the practice of sharing with a child, in an age-appropriate manner, the reasons why they were adopted, was considered another important part of creating that narrative. It could also help to manage children’s expectations of contact.<sup>275</sup>

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<sup>269</sup> BAAF, written evidence

<sup>270</sup> *ibid.*

<sup>271</sup> Q 547

<sup>272</sup> Q 750

<sup>273</sup> Q 448

<sup>274</sup> Helen Oakwater, written evidence

<sup>275</sup> *ibid.*

259. The role and impact of social media in making unauthorised contact possible, whether initiated by the birth family or the child, was mentioned in several submissions. There was concern about the potential for such contact to “jeopardise the security of the placement.”<sup>276</sup> BAAF reported that there were many cases where this had “severely disrupted existing placements, caused profound upset and disturbance and put children at risk.”<sup>277</sup> There was, however, general agreement that legislation did not provide a suitable remedy. It was suggested that this was most effectively dealt with by communication and openness between adoptive parents and their children.<sup>278</sup>
260. **Practice in relation to post-adoption contact with birth family members varies considerably. We are concerned that the purpose of such contact may not be fully understood when arrangements are made. Post-adoption contact should be considered only in relation to the needs and best interests of the child, with no presumption for or against allowing contact.**

### Government proposals on post-adoption contact

261. The Government published a consultation on post-adoption contact in August 2012. In the consultation document, Sir Martin Narey commented that “although it is invariably well intentioned, contact harms children too often.”<sup>279</sup> One of the options put forward in the document was a presumption of no contact post-adoption. In his written evidence to us Sir Martin suggested that the notion that adopted children belong to another family with whom contact must be maintained was disconcerting and hurtful to adoptive parents and off-putting to potential adopters.<sup>280</sup>
262. Clause 8 of the Children and Families Bill would insert new sections into the 2002 Act, which provide for the making of contact orders. These orders would be made at, or after, the adoption order stage. The clause contains provision to prohibit contact with a named individual where there is a risk of contact disrupting the stability of the placement.
263. We have received no evidence in relation to these clauses since they were published after our evidence hearings were completed.

### Contact with siblings

264. Contact with siblings was extremely important to the children we met for an informal discussion. The children were very keen to maintain links:
- “Before you go into care that’s all you’ve got and you comfort each other when things are bad. You can support each other because you’re going through the same things and you understand.”<sup>281</sup>

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<sup>276</sup> Birmingham City Council’s Adoption Service, written evidence

<sup>277</sup> BAAF, written evidence

<sup>278</sup> *ibid.*

<sup>279</sup> *Contact Arrangements for Children: A Call for Views*, Department for Education, August 2012: <https://www.education.gov.uk/publications/standard/publicationDetail/Page1/DFE-30011-2012#downloadableparts>

<sup>280</sup> Sir Martin Narey, written evidence

<sup>281</sup> The views expressed in the discussions with children are summarised in a report by the Children’s Rights Director for England: *Improving Adoption and permanent placements*, January 2013:

“It’s hard when you’re separated from a brother or sister because when contact is rare you stop getting to know each other.”<sup>282</sup>

265. Lack of contact, or infrequent contact, was a source of frustration for many children. In some cases contact had been lost entirely and children felt this loss very keenly.

“My sisters are being adopted and I don’t have contact with them. They don’t have their Mum and Dad and now they don’t have me or my brother.”<sup>283</sup>

266. We were told that, for many children, the loss of a sibling could be “a more painful bereavement than that of parents.”<sup>284</sup> The purpose of maintaining sibling contact is of course different to that of contact with birth parents—it is about the maintenance of relationships, and that is where direct contact is most appropriate.

267. Given the importance of sibling relationships to many adopted children, we would be concerned if the new clause on post-adoption contact in the Children and Families Bill presented a barrier to maintaining such contacts. Arguments in favour of contact with siblings are often made by the birth parents as respondents to the adoption application. Under the new clause, parents would need to seek leave to make a contact application, as would siblings,<sup>285</sup> but the ability of the latter to do so may be constrained in practice. We sincerely hope that the new provision on obtaining leave to make an application for contact do not limit the potential for sibling contact to be considered by the court, when it is desired, and deemed to be in the child’s best interests.

268. The burden of maintaining contact with siblings falls to adoptive parents and this can present challenges. After Adoption told us that once siblings are brought together “some of their behaviour can be very challenging and difficult to manage, and some adoptive families find it very, very difficult to come back from that and resume normal family life.”<sup>286</sup> HH Judge Hindley conceded that making arrangements for sibling contact was a challenge but she pointed to the importance of maintaining the sibling relationship “because one’s siblings are the longest relationships one has in life.”<sup>287</sup>

- 269. The maintenance of sibling contact, especially where children have lived together, is extremely important to some adopted children. Adoptive parents should be supported and encouraged by the courts and adoption agencies to maintain contact arrangements with siblings, when the child desires it, and provided it is in the child’s best interests. It would be highly regrettable if the new provisions on contact in clause 8 of the Children and Families Bill presented additional barriers to achieving sibling contact.**

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<http://www.parliament.uk/business/committees/committees-a-z/lords-select/adoption-legislation-committee/publications/>

<sup>282</sup> *ibid.*

<sup>283</sup> *ibid.*

<sup>284</sup> Specialist Fostering, Adoption and Kinship Care Service, Tavistock and Portman NHS Foundation Trust, written evidence

<sup>285</sup> Children and Families Bill, clause 8, section 4(c)

<sup>286</sup> Q 448

<sup>287</sup> Q 795

## CHAPTER 9: ACCESS TO INFORMATION

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270. The importance of facilitating greater openness in adoption has now been recognised for a number of years. Many adopted persons express a strong need, particularly as adults, to be able to access information about their birth families and the circumstances surrounding their adoption. BAAF explained how awareness of these issues had developed:

“Over the years adoption agencies have grown in their understanding of the importance of providing as much information as is possible to the adopted person. The information provided can help adopted people gain a greater sense of who they are and where they come from. It can help them answer basic and important questions about their lives and enables them to make informed decisions that may profoundly affect their lives. It can also help them to locate birth relatives with whom they would like to be in contact.”<sup>288</sup>

The need to access information about an adopted person can be felt equally strongly by birth relatives.

271. A range of witnesses suggested that the Adoption and Children Act 2002 had made it considerably easier for adopted persons and their birth relatives to access information about an adoption, and to establish contact with one another where desired.<sup>289</sup> Evidence received from those with experience of providing services to those seeking information about an adoption, however, highlighted three concerns about the current legislative framework.

### Access to information by descendants of adopted people

272. The descendants of adopted persons seeking access to information about the birth family of the adopted person can currently face significant barriers, depending on the amount of information already within their possession. Regulations<sup>290</sup> provide that adopted persons and ‘relatives’ of an adopted person may apply for an intermediary service to assist in obtaining information about an adoption, and to facilitate contact between adopted persons and their relatives.<sup>291</sup> The descendants of an adopted person, however, do not fall within the scope of the word ‘relative’, as defined in section 98 of the 2002 Act.<sup>292</sup>

273. In practice this means that whilst birth relatives are able to take advantage of the Regulations to help trace descendants of the adopted person, the descendants of the adopted person are unable to seek assistance to contact surviving birth family members of the adopted person. We received evidence stating that this can be a significant problem for the children and

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<sup>288</sup> BAAF, written evidence

<sup>289</sup> Written evidence from AdoptWestMids, Bradford Metropolitan Borough Council, Tri-borough Partnership

<sup>290</sup> The Adoption and Information Intermediary Services (Pre-Commencement Adoptions) Regulations 2005

<sup>291</sup> Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005, s 5. Section 4 of the Regulations defines an intermediary service as assisting adopted persons to obtain information in relation to their adoption and facilitating contact between such persons and their relatives.

<sup>292</sup> Sec. 98(7) of the Adoption and Children Act 2002 defines ‘relative’ as “any person who (*but for his adoption*) would be related to the adopted person by blood (including half-blood), marriage or civil partnership.

grandchildren of adopted persons trying to establish their own genealogical background.<sup>293</sup>

274. **We believe that the exclusion of descendants of adopted persons from the definition of relatives in section 98 of the Adoption and Children Act 2002 creates an unfair anomaly in the legislation. This can be a cause of significant distress. We recommend that the Government amend section 98 of the Act to bring within its scope the direct descendants of adopted persons. The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 should be amended accordingly.**

### Resourcing of intermediary services

275. Concerns were expressed more generally about the limited resourcing of intermediary services and resulting delays for those trying to access information.<sup>294</sup> NORCAP advised that funding pressures had impacted particularly harshly on birth relatives seeking assistance in accessing information and making contact with an adopted person.<sup>295</sup> After Adoption highlighted the “dramatic reduction” in the number of local authorities offering services for birth relatives.<sup>296</sup>
276. The legislative framework provides that whilst birth relatives may request an intermediary service from the local authority, there is no statutory obligation on the local authority to provide the service.<sup>297</sup> Some local authorities have therefore declined to do so. If the local authority does not provide this intermediary service, birth relatives must seek help from the voluntary sector, who will charge a fee. We were informed that this had resulted in a number of birth relatives, often elderly birth mothers, being unable to access services because of the costs involved.<sup>298</sup>
277. **We are concerned about the predicament facing birth relatives who are unable to access an intermediary service because of the high level of fees. We urge local authorities who do not provide an intermediary service to birth relatives to consider providing the service as part of their post-adoption support services or through the commissioning of a voluntary sector provider.**

### Disclosure of identifying information in England and Wales

278. We received evidence regarding an anomaly between the information which will be disclosed to an adopted person applying for access to information in Wales<sup>299</sup> and those applying for such information in England.<sup>300</sup> Statutory guidance accompanying the Adoption Agencies Regulations in England suggests the agency has discretion to disclose both identifying and non-

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<sup>293</sup> Written evidence from BAAF, SEPAN

<sup>294</sup> Written evidence from SEPAN, Tri-borough Partnership

<sup>295</sup> NORCAP, written evidence

<sup>296</sup> After Adoption, written evidence

<sup>297</sup> Section 98 and regulation 3 of the Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005

<sup>298</sup> NORCAP, written evidence

<sup>299</sup> Adoption Agencies Regulations 1983.

<sup>300</sup> Written evidence from BAAF, NORCAP

identifying information to the adopted person, depending on the particular circumstances of the case.<sup>301</sup> The relevant guidance in Wales is more restrictive, suggesting that only non-identifying information can be disclosed.<sup>302</sup> Adopted persons seeking access to information in England are therefore in a more favourable position than adopted persons in Wales.

279. **We are concerned that differences in the Statutory Guidance between England and Wales create an inequality in access to information about an adoption. We invite the Government to draw this matter to the attention of the Welsh Government, with a view to ensuring that adoption agencies in Wales have the same discretion as those in England to disclose identifying information to adopted persons in appropriate cases.**

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<sup>301</sup> Access to Information and Intermediary Services Practice Guidance, 2008, paragraphs 41–49

<sup>302</sup> Adoption Information and Intermediary Services (Pre-Commencement Adoptions) (Wales) Regulations 2005 Guidance, paragraphs 6 and 32

## CHAPTER 10: INTER-COUNTRY ADOPTION

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280. Inter-country adoption constitutes a relatively small proportion of the total number of adoptions in England and Wales each year. The Intercountry Adoption Centre estimates that there are currently only about 100 inter-country adoptions in which England and Wales is the receiving state every year.<sup>303</sup> However, as the Intercountry Adoption Centre also points out, these are some of the world's most vulnerable children.
281. In 2003 the UK ratified the Hague Convention on the Protection of Children and Cooperation in Respect of Inter-country Adoption 1993. The domestic legislative framework which must comply with obligations set down in the Hague Convention for inter-country adoptions is provided by the Adoption (Inter-country Aspects) Act 1999, the Adoption and Children Act 2002 and the Children and Adoption Act 2006. These legislative developments aimed at securing equivalent standards and safeguards for children adopted domestically and from abroad were generally welcomed by witnesses. The Intercountry Adoption Centre said that the legislation had "brought tangible benefits to children."<sup>304</sup> Most importantly, prospective adopters, whether seeking to adopt domestically or from abroad, now receive similarly rigorous preparation, training and assessment.<sup>305</sup>
282. Despite the generally positive assessment of the legislative framework governing inter-country adoption, a number of specific problems were identified both with the legislation and its implementation.

### Delay

283. Inter-country adoption can take many years, principally due to delays in the process of matching and placement within the overseas jurisdiction.<sup>306</sup> There is very little the UK authorities can do to mitigate delays incurred overseas. One particularly damaging cause of delay which is, however, within the control of the UK authorities is the process of obtaining clearance to bring the adopted child into the UK. Evidence suggested that delays in the immigration process can result in new adoptive families being separated for many months whilst issues concerning visas are resolved. These periods of enforced separation are particularly damaging to adopted children and their parents at a crucial time in the development of secure attachments between them. The Intercountry Adoption Centre emphasised the particular vulnerability of these new families:

"Where a couple are applying jointly one partner has usually returned to the UK whilst the other remains for an indefinite period with the child(ren) in an hotel room or other temporary accommodation. Such a disrupted or delayed start to adoptive family life, detrimental as it is to a child, would never be countenanced in domestic adoption."<sup>307</sup>

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<sup>303</sup> Q 412

<sup>304</sup> Intercountry Adoption Centre, written evidence

<sup>305</sup> Q 415

<sup>306</sup> Q 432

<sup>307</sup> Intercountry Adoption Centre, written evidence

284. We recognise the demands placed on the UK Border Agency by cases of inter-country adoption. Ensuring stability for the adoptive family in the early days and weeks of placement is, however, of vital importance and must be given priority. Separation and uncertainty caused by delays in the immigration process are inimical to the welfare of the adopted child. We received detailed evidence from the Intercountry Adoption Centre as to proposed changes in immigration procedure and practice to improve the process for adoptive families.<sup>308</sup>

285. **We recognise the importance of ensuring the best possible start for an adopted child within their new adoptive family. We urge the Home Office to consider the following changes to immigration procedure and practice with regard to children adopted from overseas:**

- **Applications for visas or British passports for adopted children should be prioritised by the UK Border Agency;**
- **Specialised training should be introduced for UK Border Agency staff with responsibility for processing visa and passport applications for adopted children;**
- **Clear timescales for the processing of applications should be established and communicated to applicants;**
- **Appeals should be dealt with promptly.**

**We urge the Home Office to implement a process whereby the merits of a potential visa application can be assessed prior to the prospective adopters travelling overseas for the child to be placed with them.**

### **Safeguarding children**

286. We received evidence that there are two significant loopholes in the current legislative framework that may increase the vulnerability of children adopted from overseas. The Adoption and Children Act 2002 currently permits UK nationals to obtain an adoption order from a foreign jurisdiction and, provided the country is included on the ‘designated list’ of countries and the application to bring the child into the UK is not made within twelve months of the adoption order being made, the adopters will be able to bring the child into the UK without undergoing any assessment as to their suitability to adopt.<sup>309</sup> We mention the importance of equivalent standards and safeguards for children adopted domestically and abroad at paragraph 281. Evidence suggested that the designated list process is susceptible to abuse by prospective adopters who can obtain an adoption order in a designated country without going through the required process of assessment and approval, leave the child in the designated country for twelve months and then apply to bring the child into the UK.

287. **We are concerned by evidence of a legal loophole created by the designated list procedure which is being exploited by some prospective adopters seeking to evade proper assessment as to their suitability to adopt. We recommend that the Government review the designated list procedure.**

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<sup>308</sup> Intercountry Adoption Centre, supplementary written evidence

<sup>309</sup> Intercountry Adoption Centre, written evidence

288. There is a further loophole in the current legislative framework, regarding parental responsibility for children who enter England and Wales pending the making of a final adoption order.<sup>310</sup> Until the final adoption order is made nobody will hold parental responsibility for the child, giving rise to a number of practical difficulties. We understand that it was proposed at the time of the 2002 legislation that an inter-country adoption should be regarded as an “agency adoption” thereby giving the local authority parental responsibility for a child placed from overseas, which could be shared with the prospective adopters as soon as the child entered the UK.<sup>311</sup> That proposal was never implemented.
289. We heard suggestions as to how this loophole could be addressed.<sup>312</sup> The Intercountry Adoption Centre proposed that in respect of a Hague Convention adoption parental responsibility could be conferred on the prospective adopters as part of the agreement that must be entered into between the sending and receiving country for every inter-country adoption.<sup>313</sup> For adoptions outside the Convention, parental responsibility could be conferred automatically on the local authority and shared with the prospective adopters as soon as the prospective adopters give their notice of an intention to adopt to the local authority (which must be done within 14 days of arriving in the UK).
290. **It is important that the legal position of children placed for adoption from overseas is properly regulated and that someone has legal authority to make decisions regarding important matters such as the child’s education and health pending the making of the final adoption order. The Government must ensure that children are not left without a designated person or local authority who can exercise parental responsibility where appropriate.**

### Support for children adopted from overseas

291. We welcome the fact that children who have been adopted from overseas, and their adoptive parents, are entitled to request from local authorities the same assessment of their needs for post-adoption support services as children adopted domestically. We are concerned, however, to learn that the amendment to the School Admissions Code which will give priority to adopted children in the school admissions process will not apply to children adopted from overseas.<sup>314</sup>
292. **We reiterate the intense vulnerability of children adopted from overseas, many of whom will face serious challenges beyond even those faced by children adopted domestically. We call on the Government to reconsider the changes made to the new School Admissions Code to give priority in the admissions process to children who were looked-after in their state of origin immediately prior to the adoption.**

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<sup>310</sup> The final adoption order would be made either by an overseas court in a Hague Convention case or, in a non-Convention case, in the English courts.

<sup>311</sup> Intercountry Adoption Centre, written evidence

<sup>312</sup> Q 423 & Intercountry Adoption Centre, written evidence

<sup>313</sup> Q 423

<sup>314</sup> Intercountry Adoption Centre, written evidence

### Costs

293. Unlike domestic adoptions, prospective adopters seeking to adopt from abroad face high financial costs. We were told that the UK is probably the “most expensive country in the world for international adoption.”<sup>315</sup> People seeking approval as inter-country adopters must pay for their own home study by the local authority. This can prove particularly burdensome for prospective adopters who are related to the child and who are often responding to some form of emergency within their extended family abroad.<sup>316</sup>
294. **We agree that the preparation of a home study report on prospective overseas adopters should be seen as a service for children and part of the local authority’s safeguarding responsibilities. We therefore urge local authorities to give careful consideration to the removal of charges for the preparation of home study reports.**

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<sup>315</sup> Q 421

<sup>316</sup> *ibid.*

## CHAPTER 11: SUMMARY OF RECOMMENDATIONS

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295. We recognise the unique nature of adoption and its potential to enhance the lives of children by providing a life-long, permanent route out of the care system. We agree with the Government that there is scope to increase the number of children benefitting from adoption. (para 24)
296. Adoption is only one solution for providing children in care with the love, stability and support that they need. Long-term fostering, kinship care and special guardianship play a significant role in meeting the needs of many of the children who cannot be cared for by their birth parents. These permanency options merit equal attention and appropriate investment, both by Government and by agencies working at the national and local level. Improving the outcomes for all looked-after children should be the objective. (para 34)
297. We strongly endorse the importance accorded to the right of a child to be raised within his or her family of birth whenever possible. This right is similarly enjoyed by the birth parents. However, the right of the birth parents must not be secured at the expense of the child's safety, health and development. The welfare of the child is, and should remain, the focus of concern. (para 40)
298. In light of the latest research about the impact of abuse and neglect on a child's physical, emotional, intellectual development and wellbeing, it is imperative to enable all children for whom adoption is the plan to join their new families as soon as possible. We note especially the very significant and sometimes life-long impact which abuse and neglect has on the very young. We recommend that Directors of Children's Services should ensure that social workers in safeguarding and adoption teams are kept aware of relevant research findings as part of their continuing professional development. (para 46)
299. We commend the Government's aim to reduce delay in placing children with their new adoptive families and to minimise the risk of harm caused by moving children between foster placements. (para 47)
300. We welcome the Government's plans to reduce the time taken by care proceedings but we are deeply concerned that achieving the Government's new time limit of 26 weeks will depend heavily on the quality of assessments submitted by social workers. Poor quality assessments may need to be repeated and can lead to an over-reliance on outside experts, increasing delay for the child. Unless the quality of social worker assessments is urgently and comprehensively addressed there is little hope of the new time limit being met. This has resource implications both centrally and locally. (para 55)
301. The timeliness of decision-making about whether or not to remove a child from home is crucial. This is especially the case for the very young. Where there is no capacity for parental change robust decision-making is needed to ensure that other permanency options, including adoption, are pursued. (para 59)
302. Decisions to delay entry into care need to be accompanied by targeted intervention to address a family's problems, with a timetable for review which takes into account the child's need for stability. (para 60)

303. Where there is parental capacity to change, the arguments in favour of early and intensive intervention to address the parents' problems are compelling: enabling children to live safely within their birth families reduces the number of children in care and the numbers waiting for an alternative permanent placement. We are concerned, therefore, that adoption reform is being funded by taking money from the Early Intervention Grant. We urge the Government not to undermine further the importance of preventative programmes by focusing on adoption at the expense of early intervention. (para 67)
304. A balance needs to be struck between giving parents time to address their problems and respecting the child's need for a secure and loving attachment. Robust assessment of parental capacity to change, by social workers and their managers, is essential to ensure that early intervention programmes are appropriately targeted. It is imperative to ensure that a child's need for secure attachment, especially when very young, is not compromised by prolonged attempts to rehabilitate the family. (para 71)
305. We reiterate the support we gave in our previous report for early decision-making after children enter care, and for permanency planning to be prioritised one month after entry into care. To support this we reiterate the recommendation in our earlier report to review the Statutory Guidance on Adoption. (para 74)
306. We urge Directors of Children's Services to ensure that adoption is integrated fully into child protection: good communication between adoption and safeguarding teams is essential to reduce the delay for those children who are not able to return to their birth families. We support the revised Ofsted reporting regime in its aim to promote more integrated working between local authority teams providing services for all looked-after children. (para 76)
307. Concurrent planning provides significant benefits in terms of enabling early attachments, minimising disruption, and reducing delay. We support its widest possible application. (para 79)
308. We welcome the Government's proposal to impose a new duty on local authorities to consider a fostering for adoption placement when considering adoption for a child. We are concerned, however, that there is a risk of challenge under the European Convention on Human Rights, unless the local authority has taken all reasonable steps to explore reunification of the child with the birth family at the earliest opportunity, and the parents have been able effectively to participate in the decision-making process. We are concerned that this may inhibit the extent to which local authorities will choose to place children in fostering for adoption placements. (para 86)
309. We strongly urge the Government to issue clear guidance to local authorities on how to satisfy their obligations under the ECHR when applying the new duty on fostering for adoption. (para 87)
310. We are persuaded of the benefits of friends and family care as alternatives to local authority foster care, where a suitable carer is available. To avoid delay such carers should be identified as early as possible, ideally pre-proceedings. (para 92)
311. We recommend that it should become normal practice where possible for local authorities to convene a family group conference, or similar

arrangement, with family members and friends, before a child becomes looked-after, or as soon as possible after entry into care, to enable identification of alternative carers before any decision about the child's future has been made. It is essential that the child is involved either directly or via an advocate in such conferences. (para 93)

312. We reiterate the recommendation in our earlier report that it is vital for Directors of Children's Services to address the current practice among some local authorities of delaying family finding until a placement order has been granted. (para 98)
313. Social workers perform a vital role in protecting the most vulnerable children in society; the status, training and reward of social workers are therefore extremely important. We invite the Government to give this further consideration. (para 104)
314. We support the findings of the Munro Review, in particular, the focus on improving the knowledge and skills of social workers and their supervision; and the proposal to retain experienced social workers in front-line services after promotion. (para 105)
315. We recommend that social workers' training on adoption, alongside other forms of permanence, is strengthened. We also recommend that permanence planning, including adoption, becomes part of a post-qualifying specialism for social workers, with a particular emphasis on the importance of timely decision-making. (para 107)
316. Improving the training and supervision of social workers will, of course, have cost implications. However, we believe that this is an area of work of such importance to society as a whole that under-resourcing it would be a false economy. (para 108)
317. We are concerned that some Independent Reviewing Officers (IROs) are charged with reviewing the care plans of too many children, when statutory guidance suggests that they should handle no more than 70 cases at any one time. We believe that excessive workloads prevent IROs from carrying out their statutory duties to promote the best interests of the child. We recommend that the number of cases handled by IROs should be monitored more robustly by IRO managers, and that action should be taken, where appropriate, to reduce workloads. Local authorities are currently under a duty to appoint IROs to review children's cases and should appoint a sufficient number to enable IROs effectively to carry out their statutory duties. (para 120)
318. We believe that IROs could discharge their duties more effectively if they were employed outside the local authority. It would be necessary for a sufficient number to be appointed to deal with relevant case loads. We recommend that the Government implement Section 11 of the Children and Young Persons Act 2008 to achieve this. (para 124)
319. We believe that it is essential that IROs undertake regular reviews of the circumstances of children subject to placement order but not yet placed for adoption, as they are required to by statutory guidance. Where appropriate, IROs need to ensure that an application to the court for revocation of a placement order is made. IRO managers and Directors of Children's Services need to ensure that the guidance on children subject to placement order but not yet placed for adoption is always followed. (para 128)

320. We welcome the fact that CAFCASS is proving successful in allocating guardians to all children; this is commendable given the significant increases in care proceedings over recent years. We are concerned, however, that the quality of this provision can sometimes be variable. (para 135)
321. We recommend that CAFCASS continue to ensure consistency of practice. The Government should ensure that CAFCASS has sufficient resources to allow for guardians to be allocated to all children subject to care and placement proceedings, and for those guardians to have an appropriate amount of time available to allow them to discharge their duties effectively. (para 136)
322. The fragmentation of adopter recruitment and the small scale of some local authority operations can result in prospective adopters being turned away by their local authority, even though there are children waiting for adoption in other areas. We consider that this position is unacceptable, given the shortage of adopters. (para 149)
323. We recommend that a greater number of councils should move towards joint working and integrated management of adoption services, including recruitment, as has already been achieved by some smaller local authorities. This will help to address the systemic disincentives to greater adopter recruitment and speedier matching. (para 150)
324. We recommend that the Government should encourage and facilitate further joint working by:
- Developing a single Ofsted inspection for a unified service, rather than separate inspections of each local authority;
  - Publishing joint scorecard assessments;
  - Issuing guidance on employment law to facilitate the merging of services. (para 151)
325. The Government is proposing to give the Secretary of State the power to direct local authorities to outsource adopter recruitment. This would constitute a significant reform of adopter recruitment in England. We understand and share the concerns of the Government about the fragmentation of adopter recruitment, and the national shortage of adopters to which this contributes. We therefore urge local authorities and partners to work together to make progress on these issues, particularly in light of concerns that outsourcing adopter recruitment risks isolating adoption from other services for looked-after children. We strongly encourage the Government to allow sufficient time for the sector to develop viable and achievable alternative proposals, before using the new power. (para 155)
326. We support the establishment of the National Adoption Gateway as a first port of call for anyone considering adoption. Delivered properly, the gateway offers the potential to increase the number of adopters coming forward, which will be vital if the Government is to meet its aim of increasing the overall number of adoptions. (para 160)
327. We support the government's proposals for speeding up the assessment and approvals process for adopters. We believe that the opportunity for an applicant-initiated break during the process will provide suitable time for reflection. A faster process will allow children to be provided with new

- parents more quickly; it may also help to retain some adopters who, at present, drop out of the approval process. (para 166)
328. We support the Government's proposal for a fast track procedure for previous adopters and approved foster carers. Those who have been approved for adoption should not have to repeat the same assessments when looking to adopt for a second time. They should be subject to an abridged approval process which focuses on their capacity to adopt an additional child and an assessment of any significant changes in their circumstances. (para 168)
329. We believe that local authorities should explore as early as possible all potentially appropriate matches for children in care, including those provided by voluntary agencies. We recognise the important role that voluntary adoption agencies play in finding families for harder-to-place children. (para 176)
330. The operation of the inter-agency fee presents a barrier to greater involvement of voluntary agencies in providing adoption services, and leads to unnecessary delay in placing children. We welcome the discussions that are taking place on this matter, and urge the Government, local authorities and the voluntary sector to reach an agreement which removes the financial disincentives currently present within the system. We encourage the Local Government Association to facilitate discussion amongst its members on the equalisation of fees. (para 177)
331. We support the proposal to move existing requirements relating to referral of children and adopters to the National Adoption Register from statutory guidance into regulations. We would, however, stress the importance of avoiding delay. We therefore recommend that adoption agencies are required to make referrals as soon as possible: once an adoption decision has been made for a child, or once an adopter has been approved; as long as no local match is actively being considered. Three months should be considered the very latest point at which to refer. (para 182)
332. We believe that the length of time many children wait to be adopted in some local authority adoption services is unacceptable. The Government must take quicker and firmer action against repeated poor performance identified through monitoring processes; where appropriate, using Section 14 of the Adoption and Children Act 2002. (para 198)
333. We recommend that more thought should be given to the design of these monitoring processes. The adoption scorecards should be revised to provide a greater level of contextual information, and to recognise fully the complexity of a local authority's care population. Measures of speed and timeliness should recognise the performance of the courts and legal processes, as well as that of local authorities. (para 199)
334. The most important measure of performance is the outcome. Insufficient data exist to measure properly the success of adoption placements. More should be done to measure rates of, and reasons for, adoption breakdown. We recommend that the Government work with the Local Government Association and Association of Directors of Children's Services to consider how this could more effectively be monitored. (para 206)
335. Children adopted from care have a range of needs due to their early life experiences which are not resolved simply by being adopted. As a result

adoptive parents face challenges that many other families do not. Adoptive parents perform a vital social function in caring for very vulnerable and often damaged children, and thereby save the state money. (para 215)

336. The failure of adoptive placements can be extremely expensive for local authorities in the short and long term, as well as causing significant harm to the children concerned. Well-targeted support services have the potential to ensure placement stability and to avoid these costs. (para 216)
337. We believe that adoptive parents should receive greater and more consistent and continuing support. Calculations of cost need to take into account the contribution which support services make to preventing adoption breakdown and the associated costs. To support this, we recommend the Government commission an independent cost-benefit analysis setting out the cost of breakdown against the cost of providing support. (para 217)
338. In addition to enhancing placement security the provision of post-adoption support has been shown to increase the number of adopters coming forward. We believe that the availability of such support would greatly assist with meeting the Government's objective of increasing significantly the number of prospective adopters. (para 219)
339. We welcome the new School Admissions Code which gives adopted children, along with children in care, priority access to school places from September 2013. In order to safeguard further the wellbeing of adopted children we recommend that the Government extends the current duty on schools under the Children and Young Persons Act 2008, to appoint a designated teacher to promote the educational achievement of looked-after children, to include adopted children, with a specific remit to educate teachers and children about adoption and its effects. (para 225)
340. We welcome the promised introduction of professional learning material on issues faced by adopted children, and we urge the Government to extend this to all staff working in schools in order to raise awareness amongst teachers and children. (para 227)
341. We welcome the Government's proposals for post-adoption support, but we regret that they fall short of a statutory duty to provide the support needs as assessed. There should be a statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support; this should include appropriate access to health, education, and Children and Adolescent Mental Health Services, and other services as necessary. These entitlements should form part of the Adoption Passport. (para 233)
342. Children in Special Guardianship and kinship placements deserve the same support which we recommend for adopted children. We therefore recommend that our proposed statutory duty on local authorities and other service commissioning bodies to cooperate to ensure the provision of post-adoption support should be extended to include formerly looked-after children in other permanent placements, such as special guardianship or kinship care. (para 237)
343. Many parents who have had children removed go on to have subsequent children, who then also become involved with the care system. This adds to the burden placed upon social services and the state. Providing support services to birth families whose children have been removed should be seen

as an essential step in breaking the cycle which leads to more children being born into families that are not able safely to parent them. (para 244)

344. We believe that resources invested in birth family support in the short-term will produce savings for the state in the longer term. We therefore recommend that the Government should establish a pilot scheme to provide post-adoption support to birth families across a number of local authority areas to establish the benefits and costs of such provision. (para 245)
345. We believe the recently launched social impact bond for enhanced family finding is an innovative approach to finding homes for the most difficult to place children. It correctly balances the additional cost of the scheme against the cost of keeping children in local authority care until they are 18. We invite the Government to follow the progress of this social impact bond with a view to establishing what lessons can be learnt and applied more widely. (para 253)
346. Practice in relation to post-adoption contact with birth family members varies considerably. We are concerned that the purpose of such contact may not be fully understood when arrangements are made. Post-adoption contact should be considered only in relation to the needs and best interests of the child, with no presumption for or against allowing contact. (para 260)
347. The maintenance of sibling contact, especially where children have lived together, is extremely important to some adopted children. Adoptive parents should be supported and encouraged by the courts and adoption agencies to maintain contact arrangements with siblings, when the child desires it, and provided it is in the child's best interests. It would be highly regrettable if the new provisions on contact in clause 8 of the Children and Families Bill presented additional barriers to achieving sibling contact. (para 269)
348. We believe that the exclusion of descendants of adopted persons from the definition of relatives in section 98 of the Adoption and Children Act 2002 creates an unfair anomaly in the legislation. This can be a cause of significant distress. We recommend that the Government amend section 98 of the Act to bring within its scope the direct descendants of adopted persons. The Adoption Information and Intermediary Services (Pre-Commencement Adoptions) Regulations 2005 should be amended accordingly. (para 274)
349. We are concerned about the predicament facing birth relatives who are unable to access an intermediary service because of the high level of fees. We urge local authorities who do not provide an intermediary service to birth relatives to consider providing the service as part of their post-adoption support services or through the commissioning of a voluntary sector provider. (para 277)
350. We are concerned that differences in the Statutory Guidance between England and Wales create an inequality in access to information about an adoption. We invite the Government to draw this matter to the attention of the Welsh Government, with a view to ensuring that adoption agencies in Wales have the same discretion as those in England to disclose identifying information to adopted persons in appropriate cases. (para 279)
351. We recognise the importance of ensuring the best possible start for an adopted child within their new adoptive family. We urge the Home Office to consider the following changes to immigration procedure and practice with regard to children adopted from overseas:

- Applications for visas or British passports for adopted children should be prioritised by the UK Border Agency;
- Specialised training should be introduced for UK Border Agency staff with responsibility for processing visa and passport applications for adopted children;
- Clear timescales for the processing of applications should be established and communicated to applicants;
- Appeals should be dealt with promptly.

We urge the Home Office to implement a process whereby the merits of a potential visa application can be assessed prior to the prospective adopters travelling overseas for the child to be placed with them. (para 285)

352. We are concerned by evidence of a legal loophole created by the designated list procedure which is being exploited by some prospective adopters seeking to evade proper assessment as to their suitability to adopt. We recommend that the Government review the designated list procedure. (para 287)
353. It is important that the legal position of children placed for adoption from overseas is properly regulated and that someone has legal authority to make decisions regarding important matters such as the child's education and health pending the making of the final adoption order. The Government must ensure that children are not left without a designated person or local authority who can exercise parental responsibility where appropriate. (para 290)
354. We reiterate the intense vulnerability of children adopted from overseas, many of whom will face serious challenges beyond even those faced by children adopted domestically. We call on the Government to reconsider the changes made to the new School Admissions Code to give priority in the admissions process to children who were looked- after in their state of origin immediately prior to the adoption. (para 292)
355. We agree that the preparation of a home study report on prospective overseas adopters should be seen as a service for children and part of the local authority's safeguarding responsibilities. We therefore urge local authorities to give careful consideration to the removal of charges for the preparation of home study reports. (para 294)

## APPENDIX 1: MEMBERS AND DECLARATIONS OF INTEREST

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### Members

Rt Hon Baroness Armstrong of Hill Top  
 Rt Hon Baroness Butler-Sloss GBE (Chairman)  
 Baroness Eaton DBE  
 Viscount Eccles CBE  
 Baroness Hamwee  
 Baroness Howarth of Breckland OBE  
 Baroness King of Bow  
 Baroness Knight of Collingtree DBE  
 Baroness Morris of Bolton OBE  
 Lord Morris of Handsworth OJ  
 Baroness Walmsley  
 Rt Hon Lord Warner

### Specialist Adviser

Professor Sonia Harris-Short, Professor of Family Law and Policy,  
 University of Birmingham

### Declaration of Interests

Rt Hon Baroness Armstrong of Hill Top

*Chair, the Cyrenians, Newcastle—among other projects the Cyrenians run a residential centre for women with addictions, and their children, trying to prevent the children from entering the care system. No financial involvement. Ambassador for Action for Children, a children’s charity that works with children in the care system. No financial interest.*

Rt Hon Baroness Butler-Sloss GBE

*President of the Family Division until April 2005 in charge of appointing adoption Judges.  
 Sat as an adoption Judge and as an appeal Judge on adoption.  
 Governor of Coram.  
 Patron of BAAF.  
 Past Patron of TACT  
 Trustee of Human Trafficking Foundation.  
 Informal work on trafficked children with Barnardo’s.  
 Previous work on trafficking with NSPCC.  
 President of the Grandparents Association.  
 Served as independent member on the Conservative Social Work Commission.*

Baroness Eaton DBE

*Elected member of Bradford Metropolitan District Council.  
 Past Leader of Bradford Metropolitan District Council.  
 Past Chairman of Bradford Metropolitan District Council Social Services.  
 Past Chairman of the Local Government Association.*

Viscount Eccles CBE

*No relevant interests.*

Baroness Hamwee

*Patron, PAC.  
 Patron, Intercountry Adoption Centre.*

*Joint President, London Councils.*

*Past Council Member and Legal Adviser, Parents for Children.*

*Past Member, Legal Group, British Association for Adoption and Fostering (BAAF).*

*Past Member, Social Services Committee, London Borough of Richmond-upon-Thames.*

*Past Member of adoption panel, London Borough of Richmond-upon-Thames.*

**Baroness Howarth of Breckland OBE**

*Former Chair of Cafcass and deputy before that, no present involvement.*

*Member of British Association of Social Workers (BASW).*

*Associate, Association of Directors of Adult Social Services.*

*Vice President of National Youth Advocacy Scheme.*

**Baroness King of Bow**

*Mother of three adopted children.*

**Baroness Knight of Collingtree DBE**

*No relevant interests.*

**Baroness Morris of Bolton OBE**

*Vice-President of Oxford Parent Infant Project.*

*Vice-President of Northampton Parent Infant Project.*

*Former Shadow Minister for Children, Schools and Families.*

*Served on Conservative Social Work Commission.*

**Lord Morris of Handsworth OJ**

*No relevant interests.*

**Baroness Walmsley**

*Sister to an adopted brother.*

*Grandmother to an adopted granddaughter through an overseas adoption (China).*

**Rt Hon Lord Warner**

*Director of social services, Kent County Council 1985–91.*

A full list of Members' interests can be found in the Register of Lords Interests:

<http://www.publications.parliament.uk/pa/ld/ldreg.htm>

**Professor Sonia Harris-Short**

*Authored publications on issues relating to adoption law and policy and the accommodation of cultural and religious diversity.*

## APPENDIX 2: LIST OF WITNESSES

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Evidence is published online at <http://www.parliament.uk/hl/adoption> and available for inspection at the Parliamentary Archives (020 7219 5314).

Evidence received by the Committee is listed below in chronological order of oral evidence session and in alphabetical order. Those witnesses with \* gave both oral evidence and written evidence. Those with \*\* gave oral evidence and did not submit any written evidence. All other witnesses submitted written evidence only.

### Oral evidence in chronological order

*	QQ 1–79	Department for Education
*	QQ 80–107	British Association for Adoption and Fostering (BAAF)
*	QQ 108–155	PAC
*	QQ 156–186	Coram
*	QQ 187–233	Barnardo’s
*	QQ 234–274	Children and Family Court Advisory and Support Service (Cafcass)
**	QQ 275–308	London Borough of Hillingdon
*		London Borough of Hackney
**		Bournemouth Borough Council
*	QQ 309–353	Sir Martin Narey, Ministerial Adviser on Adoption
*	QQ 354–382	Consortium of Voluntary Adoption Agencies (CVAA)
**	QQ 383–411	Professor Eileen Munro CBE
*	QQ 412–436	Intercountry Adoption Centre
*	QQ 437–459	After Adoption
*	QQ 460–500	Ofsted
**	QQ 501–534	Mark Rogers, Chief Executive, Solihull Metropolitan Borough Council and Children’s Lead for the Society of Local Authority Chief Executives (SOLACE)
**	QQ 536–547	Office of the Children’s Commissioner
*	QQ 548–566	Association of Directors of Children’s Services (ADCS)
**	QQ 567–588	Tim Loughton MP
*	QQ 589–621	British Association of Social Workers (BASW)
**		College of Social Work
**	QQ 622–667	Association of Lawyers for Children
**		Family Law Bar Association
*	QQ 668–693	Family Rights Group
**		Grandparents Plus

- \* The Who Cares? Trust
- \*\* QQ 694–717 District Judge Nicholas Crichton
- \* QQ 718–769 Dr Julie Selwyn, University of Bristol
- \*\* Professor Nina Biehal, University of York
- \* Professor June Thoburn, University of East Anglia, Norwich
- \*\* QQ 770–804 Lord Justice McFarlane, Mr Justice Ryder, Her Honour Judge Hindley, and Her Honour Judge Swindells.
- \*\* QQ 805–830 Edward Timpson MP, Minister for Children and Families, Department for Education
- \* QQ 831–848 National Society for the Prevention of Cruelty to Children (NSPCC)

### Alphabetical list of all witnesses

- Action for Children
- Adopt UK Child Director Ms Azra Jabbar
- Adopt West Mids (West Midlands Adoption Consortium)
- Adoption Focus
- \* Adoption Matters Northwest
- Adoptionplus
- \* After Adoption (QQ 437–459)
- Alliance for Child-Centred Care
- \* Association of Directors of Children’s Services (ADCS) (QQ 548–566)
- \*\* Association of Lawyers for Children (QQ 622–667)
- Professor Ravinder Barn (Royal Holloway, University of London) and Dr Derek Kirton (University of Kent)
- \* Barnardo’s (QQ 187–233)
- Stephen Bashford
- Florence Bellone
- Pete Bentley
- \*\* Professor Nina Biehal, Social Policy Research Unit, University of York (QQ 718–769)
- Birmingham City Council’s Adoption Service
- Amanda Boorman
- \*\* Bournemouth Borough Council (QQ 275–308)
- Bradford Metropolitan District Council
- \* British Association for Adoption and Fostering (BAAF) (QQ 80–107)
- \* British Association of Social Workers (BASW) (QQ 589–621)
- Roger Bullock

- \* Children and Family Court Advisory and Support Service (CAFCASS) (QQ 234–274)  
Cambridgeshire County Council  
Jim Clifford
- \*\* College of Social Work
- \* Consortium of Voluntary Adoption Agencies (CVAA) (QQ 354–382)
- \*\* Office of the Children’s Commissioner
- \* Coram (QQ 156–186)
- \*\* District Judge Nicholas Crichton (QQ 694–717)
- \* Department for Education (QQ1–79)  
Evangelical Alliance and Care for the Family
- \*\* Family Law Bar Association (QQ 622–667)  
Family Justice Council
- \* Family Rights Group (QQ 668–693)  
Fostering Network  
Charles Geekie QC
- \*\* Grandparents Plus (QQ 668–693)
- \*\* Her Honour Judge Hindley (QQ 770–804)  
Collette Anne Ibbotson, Director of Yorkshire Adoption Agency
- \* Intercountry Adoption Centre (QQ 412–436)  
Interdisciplinary Alliance for Children  
Justice for Families  
Six independent Chairpersons of Adoption Panels, in Kent  
Kinship Care Alliance  
Dr Derek Kirton (University of Kent) and Professor Ravinder Barn (Royal Holloway, University of London)
- \* Local Government Association
- \* London Borough of Hackney (QQ 275–308)
- \*\* London Borough of Hillingdon (QQ 275–308)
- \*\* Tim Loughton MP (QQ 567–588)  
Professor N V Lowe, Professor of Law, Head of Cardiff Law School  
Jan Loxley Blount TCert, Dip Child Development
- \*\* Lord Justice McFarlane (QQ 770–804)
- \*\* Professor Eileen Munro CBE (QQ 383–411)  
Nagalro
- \* Sir Martin Narey, Ministerial Adviser on Adoption (QQ 309–353)  
National Adoption and Fostering Service, South London and Maudsley (SLAM)  
National IRO Managers Group

- \* National Society for the Prevention of Cruelty to Children (NSPCC)  
(QQ 831–848)  
NORCAP  
Helen Oakwater
- \*\* Office of the Children’s Commissioner (QQ 536–547)
- \* Ofsted (QQ 460–500)
- \* PAC (QQ 108–155)  
Parents Against Injustice (P.A.I.N.)  
Race Equality Foundation  
Resolution
- \*\* Mark Rogers, Chief Executive, Solihull Metropolitan Borough Council and  
Children’s Lead for the Society of Local Authority Chief Executives  
(SOLACE) (QQ 501–534)  
Councillor Rosalyn St Pierre
- \*\* Mr Justice Ryder (QQ 770–804)
- \* Dr Julie Selwyn, Director of the Hadley Centre for Adoption and Foster  
Care Studies, University of Bristol (QQ 718–769)  
South East Post Adoption Network (SEPAN)  
Stonewall  
Sally Stoker, Head of Adoption, Suffolk Adoption Agency
- \*\* Her Honour Judge Swindells (QQ 770–804)  
TACT (The Adolescent and Children’s Trust)  
Specialist Fostering, Adoption and Kinship Care Service, Tavistock and  
Portman NHS Foundation Trust
- \* The Who Cares? Trust (QQ 668–693)
- \* Professor June Thoburn, Emeritus Professor of Social Work, Centre for  
Research on the Child and Family, University of East Anglia, Norwich  
(QQ 718–769)
- \*\* Edward Timpson MP, Minister for Children and Families, Department for  
Education (QQ 805–830)  
Tri-borough Adoption and Fostering Service (London Borough of  
Hammersmith and Fulham; Royal Borough of Kensington and Chelsea,  
Westminster City Council)  
Paul Twyman  
Alex Verdan QC  
Warwickshire County Council  
Warrington, Wigan and St Helens Councils (WWISH) shared Adoption  
Service  
Welsh Government

### APPENDIX 3: CALL FOR EVIDENCE

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The House of Lords has established a Select Committee on Adoption Legislation. The terms of reference of the inquiry ask the Committee to “consider the statute law about adoption, and to make recommendations”. The Committee will be giving particular thought to those elements of the Adoption and Children Act 2002 and the Children and Adoption Act 2006 that concern the adoption process. There may be sections of other acts or regulations dealing with adoption that the Committee will also wish to look at. The work of the Committee will be focused upon adoption in England and Wales. Any draft legislation published whilst the Committee is undertaking its work will also be considered.

The Committee will explore the following key issues in detail and would welcome your views on any or all of the following questions. Please note that questions are not listed here in any particular order of importance.

Written evidence should arrive no later than 19th July 2012.

The Committee will be considering adoption legislation and policy as it applies to all and, as such, will not be investigating individual cases.

#### Background

- (a) Do we have the right structure for adoption?
- (b) Should we be concerned about the falling number of adoptions? Why are the numbers falling?

#### Legislation

- (a) What impact did the 2002 Act have on the adoption process?
- (b) Have all aspects of the 2002 and 2006 Acts been implemented appropriately and successfully?
- (c) Is further legislation required to improve any aspect of the adoption system?
- (d) Can you as a respondent identify a problem and tell us if, and if so where, the legislation (including regulations), needs to change?

#### Time taken in placing children

- (a) Is excessive time taken in placing children? Do some groups of children take a disproportionate length of time?
- (b) What aspects of the adoption process, including pre-process care proceedings, take most time?
- (c) Do the various parts of the system—local authorities, adoption agencies, courts and others—work effectively together?
- (d) Could the adoption process be speeded up, whilst ensuring that necessary safeguards are preserved?
- (e) How widely used is concurrent planning? What are its advantages and disadvantages?
- (f) What are the reasons for the variations in time taken to place children by different local authorities?

### The number of potential adopters

- (a) Are there enough potential adopters coming forward? Are there shortages in particular ethnic groups?
- (b) How do we ensure the best “fit” for a child, and is trans-racial adoption relevant to this issue?
- (c) Why do some potential adopters drop out during the adoption process?
- (d) Have the changes to eligibility introduced by the 2002 Act impacted the number of potential adopters?
- (e) What will be the likely effect of the measures proposed in the Department for Education’s ‘Action Plan for Adoption’?
- (f) Does the number of agencies inhibit the number of potential adopters recruited?
- (g) Does the recent increase in knowledge about early child development affect the balance between children’s rights and parental rights?

### Court proceedings

- (a) Do court proceedings take undue time in the adoption process?
- (b) Would the recommendations of the Family Justice Review substantially alter the position?
- (c) How effective are provisions for the representation by guardians of children in court proceedings?
- (d) How effective have placement orders been in facilitating the placement and adoption of children compared with “freeing orders”?
- (e) How common is it for care proceedings and placement order proceedings to be heard together or consecutively? What are the advantages and disadvantages of this approach?
- (f) How will changes to legal aid impact, if at all, on adoption proceedings?

### Post-adoption support

- (a) How, if at all, has the 2002 Act impacted upon the provision of post-adoption contacts and support?
- (b) Are measures needed to enhance post-adoption financial and other support for (i) adopted children; (ii) adoptive parents, (iii) birth families?

### Inter-country adoption

- (a) Have the inter-country adoption safeguards introduced by the 2002 and 2006 Acts proved successful?
- (b) Would you recommend any change to the legislation to make inter-country adoption simpler?

- (c) Are there any special challenges in adopting children from particular countries or regions?

### **Access to Information**

- (a) Has the 2002 Act made it easier for adopted adults and/or birth families to trace their relatives, should they wish to do so?

### **Other permanent placements**

- (a) What has been the effect of the introduction, in the 2002 Act, of 'special guardianship'?
- (b) Is special guardianship an effective alternative to adoption, especially for those of school age (ie 5 and older)?
- (c) What is the best way to ensure permanent and consistent placements for children?
- (d) Would earlier interventions with difficulties have an effect on the number of children who need to be adopted or otherwise permanently separated from their birth family?

### **Monitoring**

- (a) Do 'adoption scorecards' provide an appropriate means for monitoring the performance of local authorities with regard to adoption?
- (b) How robust are current systems for monitoring the i) number of adoptions made, ii) the number of children awaiting adoption, and iii) the amount of delay experienced by those awaiting adoption?

## APPENDIX 4: ACRONYMS AND GLOSSARY

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ADCS	Association of Directors of Children’s Services
BAAF	British Association of Adoption and Fostering
BASW	British Association of Social Workers
BME	Black and Minority Ethnic
CAFCASS	Children and Family Court Advisory and Support Service
CAMHS	Children and Adolescent Mental Health Services
CVAA	Consortium for Voluntary Adoption Agencies
ECHR	European Convention on Human Rights
FDAC	Family Drug and Alcohol Court
Hague Convention (Adoption)	An international agreement to establish safeguards to ensure that inter-country adoptions take place in the best interests of the child
IRO	Independent Reviewing Officer
Kinship care	Care provided by a relative for a child who is unable to remain with his or her parents.
LGA	Local Government Association
Looked-after children	Children who are in the care of the local authority.
Nagalro	The Professional Association for Children’s Guardians, Family Court Advisers and Independent Social Workers
NICE	National Institute for Health and Clinical Excellence
NORCAP	Voluntary Adoption Support Agency that works solely with adults affected by adoption
NSPCC	National Society for the Prevention of Cruelty to Children
Ofsted	Office for Standards in Education, Children’s Services and Skills
PAC	Pre-adoption, Post-adoption, Permanency Advice and Counselling
SEPAN	South East Post Adoption Network
SGO	Special Guardianship Order
SSDA 903	Statistical return on children who are looked after by local authorities.
TACT	The Adolescent and Children’s Trust
Tri-borough	London Borough of Hammersmith and Fulham, Royal Borough of Kensington and Chelsea and Westminster City Council
WWiSH Partnership	Warrington, Wigan and St Helens Councils

## APPENDIX 5: MEMORANDUM FROM THE DEPARTMENT FOR EDUCATION, OCTOBER 2012

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### QUESTIONS POSED BY THE LORDS SELECT COMMITTEE ON ADOPTION LEGISLATION

Q1 How many adoptions have broken down (ie child returned to care system) in England over the last five years? Does the Department have a figure available for the financial cost (precise or estimated) of adoption breakdown?

A1

i) There is not currently a regular and consistent national measure of adoption breakdowns; it is not possible to say how many breakdowns occurred in the last five years.

Martin Narey found that figures from different studies ranged from 3% to 30%.<sup>317</sup> Julie Selwyn studied 130 children approved for adoption in the early 1990s between the ages of three and eleven. Follow-up when aged 7–21 showed that, of the 74% placed for adoption, 11% had disrupted before the Adoption Order was granted and 5% afterwards.<sup>318</sup> Experts generally agree that the higher figures are for hard to place groups—breakdown is more likely where children are older or have more complex needs. Studies of older children placed for adoption show disruption rates of about 20%, with a range of between 10% and 50% depending on the sample and rising with age of placement.<sup>319</sup> Martin Narey concluded that rates for over 5s were around 25%; 1 to 5s 10%; and under 1s 3%.

Ministers recognise that there is a need to understand more about why adoptions break down. The Department has commissioned research into the rate of, and reasons for, adoption breakdown, which will be published in 2014. The Department has also recently agreed with local authorities that they will begin recording data on the number of children who re-enter care having previously been adopted from care. This will begin with the 2013–14 reporting year, the first data being submitted in summer 2014.

ii) There is no precise figure for the financial cost to local authorities of an adoption breakdown. The cost will depend on the child's care needs and, in particular, their age which will affect how many years the child might remain in care following the breakdown.

A study looked at the care cost savings local authorities make when children are adopted, and suggested that there is an annual saving of £25,000 per child.<sup>320</sup> The annual cost of a stable foster placement was estimated by Hannon (and cited by Coram and Harrow Council<sup>321</sup>) as £23k.<sup>322</sup> These annual care cost estimates appear to agree, but it is important to remember that care costs vary nationally and

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<sup>317</sup> Martin Narey's report for the Times, 5 July 2011

<sup>318</sup> Selwyn et al (2006) *Costs and Outcomes of Non-infant Adoptions*, BAAF

<sup>319</sup> Rushton, A. (2003) *The adoption of looked after children: A scoping review of research*, SCIE

<sup>320</sup> Selwyn et al (2009) *Adoption and the Inter-agency Fee*, DCSF

<sup>321</sup> Report on the partnership between Coram and Harrow Council to increase quality and reduce cost of care in Children's Services, April 2011

<sup>322</sup> Hannon, C, Wood, C, Bazalgette, L, *In Loco Parentis* (2010), Demos

that these estimates are not specifically for children who have been through an adoption breakdown, who may be likely to need additional support. Hannon estimated that an unstable year in care, with various placements and periods in residential care, would cost £56k per annum.

Q2. Does the Department have figures available for the numbers of adopted children i) accessing CAMHS ii) receiving SEN provision iii) receiving other specialist services and interventions post-adoption?

A2 The Department does not have national figures available for the number of adopted children receiving these services. The adoptive population has no enhanced entitlement to CAMHS or SEN services so data is not gathered nationally on adoptees as a specific group. Specialist adoption services are provided by local authorities, voluntary adoption agencies and adoption support agencies. There is no central collection or record of the number of families receiving specialist services from these different agencies; adopters may approach many different agencies directly and independently if they need support.

Adoption UK, an adoption support agency, surveyed a sample of adopters about the services they receive. The survey was over the period October 2011 to January 2012. Their report *'It takes a village to raise a child'* may be of interest to the Committee.

[http://www.adoptionuk.org/information/281406/it\\_takes\\_a\\_village/](http://www.adoptionuk.org/information/281406/it_takes_a_village/)

Q3 The following transcript extract is from an evidence session held with local authorities on 10th July and relates to shared service provision in adoption:

**Lord Warner:** Can I just make sure I have understood some of these issues around money and joint working in consortia? If you are talking about a consortium, are you talking about, or is the LGA talking about, pooled budgets and integrated management, or is it much looser than that? What are we actually talking about? In practice, is one local authority outsourcing this adoption work to another, or is it a much looser federation of arrangements?

**Councillor Greene:** The south-west one is a much looser thing. It is not an outsourced arrangement. We run our own adoption service.

**Lord Warner:** So there is no integrated management and there is no pooling of budgets.

**Councillor Krishna:** There is aligning of budgets or there may be aligning of budgets.

**Lord Warner:** That is not the same.

**Councillor Krishna:** No, it is not the same, but it is—

**Councillor Simmonds:** Generally speaking, it is unlikely, because of the legal responsibilities that sit very firmly with the place in the local authority, that it would be straightforward to have a pooled budget around this, but what we tend to have is pooled arrangements for sourcing prospective adoptive parents and pooled arrangements for funding matching them with the children we have coming forward. If we know we have a child with severe disabilities in Hillingdon who needs to be placed with a certain type of family who are prepared for that and

there happens to be a family of that nature resident in Bournemouth, then those two, that family and that child, can be brought together through that consortium arrangement.

**Lord Warner:** The management is not integrated?

**Councillor Simmonds:** No.”

Is the Department aware of any legal responsibilities/restrictions that prevent the pooling of local authority budgets to provide shared adoption services across boundaries? Is the extent of local authority integration of adoption services limited by any existing legislation (primary or secondary)?

Q3 On the contrary, the Department is aware of examples of local authorities which have merged their adoption services. This is happening through the tri-borough arrangement for Children’s Services involving the London Boroughs of Kensington and Chelsea, Hammersmith and Fulham, and Westminster, and through the merging of the adoption teams in Warrington, Wigan and St Helens. Under the Local Government Act 1972, a local authority may arrange for the discharge of their functions by another local authority and two or more local authorities may discharge their functions jointly (section 101). Furthermore local authorities now have the general power of competence in the Localism Act 2011. Any such arrangements would need to be supported by clear financial and accountability arrangements.

## **APPENDIX 6: LETTER TO THE CHAIRMAN FROM THE PARLIAMENTARY UNDER SECRETARY OF STATE FOR CHILDREN AND FAMILIES DATED 7 NOVEMBER 2012**

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### **Draft Clauses on Adoption**

I am writing to draw your attention to the command paper that the Government is publishing today which contains two draft clauses which would reduce delay for children for whom adoption is the plan. The Welsh Government has decided that it does not want the clauses to apply in Wales.

I understand that your Committee is intending to carry out pre-legislative scrutiny of these draft clauses. I very much welcome this as the work that your Committee has done so far in considering existing adoption legislation will give you a valuable perspective on these draft clauses.

One of these clauses will amend section 1(5) of the Adoption and Children Act 2002 to remove the requirement on adoption agencies to give due consideration to a child's religious persuasion, racial origin and cultural and linguistic background when placing the child for adoption.

There would be no changes to the requirement of adoption agencies to make the child's welfare throughout his or her life their paramount consideration and to have regard to the welfare checklist when placing a child for adoption.

The other clause would amend section 22C of the Children Act 1989 to create a new duty on local authorities to give preference to a "Fostering for Adoption" placement. This would apply when they have decided that a child should be placed for adoption with particular prospective adopters but where there is no authority to place the child for adoption. This would be where the court has yet to make a decision on an application for a placement order. The placement would be a foster placement, only changing to an adoptive placement if a placement order is made.

I attach, for your information, a copy of the Statement I am making to the House today and a copy of the command paper.

I am confident that the reforms we are introducing, which include these clauses, will change practice so that we see more children living with their prospective adoptive families earlier, giving them a better chance of leading full and happy lives.

I welcome the Committee's continued interest in this policy area and look forward to your views on these important reforms. I also look forward to meeting the committee to discuss adoption legislation on 4 December.

## APPENDIX 7: LETTER TO THE CHAIRMAN FROM THE PARLIAMENTARY UNDER SECRETARY OF STATE FOR CHILDREN AND FAMILIES DATED 23 JANUARY 2013

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### *Adoption funding announcement and Further Action on Adoption: Finding More Loving Families*

I am writing to inform you that tomorrow I will be publishing a new adoption strategy and will be announcing a package of funding for the adoption system.

I have attached for your information a copy of *Further Action on Adoption: Finding More Loving Families* which describes the national crisis in adopter recruitment and puts forward the Government's proposals for addressing it in the short and long term. I know that your Committee is aware of the significant challenges we face in recruiting and approving enough of the right adopters to meet the needs of children. In the document we propose to address the weaknesses in the current system swiftly and decisively in the interests of a significant and sustainable increase in the number of adopters.

In *Further Action on Adoption* we outline our plans to introduce legislation at the earliest available opportunity that would give the Secretary of State the power to require some or all local authorities to use adopters approved by other adoption agencies. We believe that such a power could be necessary to drive the systemic changes that are needed in the recruitment and approval of adopters. If necessary, we will use that power to reform the adopter recruitment system. However, I recognise that this is a radical step and will consider the progress towards systemic reform made by local authorities themselves before making the decision to use such a power.

Because we need to see reforms starting immediately, I am also announcing tomorrow that the £150 million Early Intervention Grant topslice, which the Secretary of State for Communities and Local Government confirmed in announcing the Local Government Settlement for 2013–14, will be returned in full to local authorities in the form of the Adoption Reform Grant. This funding will help to secure reform of the adoption system. The Adoption Reform Grant will be in two parts. £100m of the £150m will not be ring-fenced and will be available to local authorities to support adoption reform. It will enable local authorities to target funding at the entire adoption process and the specialist support children need. They will retain the discretion to use this funding to address their highest priority needs, such as the major backlog of children waiting for adoption.

The remaining £50m will be ring-fenced. It will support local authorities to address structural problems with adopter recruitment, particularly the unfair difference in fees charged for adopters approved by authorities which is lower than that charged by Voluntary Adoption Agencies. It will also help in the search for adopters willing and able to take children who take longer to place in new homes.

I will also be announcing tomorrow a new £1m grant to the Consortium of Voluntary Adoption Agencies to enable it to pump-prime local Voluntary Adoption Agencies to recruit more adopters.

I hope you agree that the Government is right in acting decisively to address these critical systemic problems with adopter recruitment and approval.

## **APPENDIX 8: LETTER TO THE CHAIRMAN FROM THE PARLIAMENTARY UNDER SECRETARY OF STATE FOR CHILDREN AND FAMILIES DATED 12 FEBRUARY 2013**

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### **Adoption Legislation: Fostering for Adoption**

Thank you for meeting me on 5 February to discuss the adoption clauses in the Children and Families Bill. I thought a letter might be helpful to follow up our discussion and to address your concerns in regard to Clause 1 in the Bill.

When we met last week you raised concerns about what the proposed duty on local authorities to consider a “Fostering for Adoption” placement might mean in terms of the Convention rights of both birth parents and children and whether it would mean that local authorities will cease efforts to work with birth families if they are considering this type of placement. I thought it might be helpful to clarify the expectations that would be placed on local authorities in relation to the work with birth families where the authority is considering a “Fostering for Adoption” placement.

I think it is important to recognise that the proposed duty must be read in the context of the wider requirements of section 22C of the Children Act 1989, and not in isolation. As you know, section 22C sets out the duties of a local authority in respect of accommodating looked-after children. Under this section, local authorities must make arrangements for the child to live with his or her parents (or one of the other people mentioned in section 22C (3), unless that is not reasonably practicable and consistent with the child’s welfare. This means that a local authority’s priority, when a child is looked-after, must be to try to rehabilitate the child with their birth family by supporting the family in overcoming the challenges that led to the child becoming looked-after in the first place. “Fostering for Adoption” does not change this.

The local authority may be attempting to rehabilitate the child with their birth family while at the same time considering other forms of long-term care, should that rehabilitation be unsuccessful. The fact that the local authority are considering other forms of long-term care does not mean that they should stop their efforts to reunite the child with the birth family while this remains a possibility.

If the local authority considers that adoption might be a likely option for a particular child, based on the evidence available and their assessment, then the duty will require the authority to consider a placement with foster carers who are also approved prospective adopters. Because the duty will “bite” before the adoption decision has been made by the agency decision maker, and before the court has considered whether to make a placement order, the duty does not require the local authority to place the child in that particular placement, only to consider such a placement. The child could be placed in such a placement while rehabilitation is underway, which is also a feature in concurrent planning placements.

In deciding whether a “Fostering for Adoption” placement is appropriate for a particular child, the local authority will first need to decide that it is not reasonably practicable and consistent with the child’s welfare to live with birth family, then the local authority must go on to consider all the other options, and has to decide which of those other options is the most appropriate placement for the child.

Section 22 C(5) of the Act requires them to place the child in ‘the most appropriate placement available’, and section 22 will apply in relation to the decision about which placement is most appropriate, and will—as at present—require the authority to safeguard and promote the child’s welfare.

Local authorities must also act in accordance with the European Convention on Human Rights in relation to any case of a looked-after child including where they were considering adoption as a possible option. Where rehabilitation with the birth parents remains an option local authorities will need to ensure they comply with the Convention rights of both the parents and the child.

I should also point out that we are not making any changes to the law in relation to the making of placement orders or adoption orders. So it will still be the case, as now, that a child cannot be placed for adoption unless the birth parents give their consent, or the court has made a placement order. Birth parents will still have the same rights to be heard when the court is considering an application for a placement order.

I agree with you that illustrative guidance would be helpful and my officials are considering how best to provide this. I hope you will find the information in this letter helpful and I look forward to reading the report of your committee.