



Consultation response of Nagalro

to

House of Lords Select Committee on Adoption Legislation

25 July 2012

Nagalro is the professional association for Family Court Advisers, Children's Guardians and Independent Social Workers. It has approximately 700 full members in England and Wales who represent the interests of children in a range of public and private law proceedings. About half work for the Children and Family Courts Advisory and Support Service (Cafcass). Many also act as Independent Social Workers providing expert witness reports in a wide range of complex cases coming before the courts. They also undertake work in a variety of roles for example with fostering agencies and in independent therapeutic practice. Members have significant experience as managers, chairs of Adoption Panels and other specialist roles as well as practitioners and therapists.



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Summary

- It is permanence that provides the 'gold standard' of security, continuity and a sense of belonging for children in the care system.
- Adoption is one among several options for permanence that can all provide a stable upbringing for children. It is most suitable for younger children. 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. Ofsted reports an overall increase in permanence orders even though adoption orders have reduced.
- Cases are increasing in complexity due to factors such as changing family structures, cultural and ethnic diversity, the impact of poverty, substance abuse and other parental problems such as mental health issues, neglect and disability. Growing understanding of how neglect and abuse damage children's early development is one driver for the increase in applications for care orders.
- High-quality, timely assessment of children and parents in parallel with extended family and friends, and non-related carers is required to provide sound enough evidence for courts when making irrevocable life-changing decisions for vulnerable children.
- Social work assessment must be front-loaded. For robust, accurate decisions about children at risk of abuse and neglect to be made in a timely way the most skilled, specialist-trained social workers need to be involved early in the process. Local authority performance continues to be extremely variable, under pressure from budget stringency and a workforce limited in experience and training.
- Delay is caused in a significant proportion of cases by poorly focused work with families and lack of clarity, experience and confidence in social workers about thresholds and evidence for court. When courts cannot rely on the quality or impartiality of assessments they must commission alternatives.
- The Independent Reviewing Officer (IRO) service cannot provide an effective protective mechanism to vulnerable children as it is structurally flawed and not independent of local authorities. It should be relocated into its own 'purpose-built' agency outside LAs.
- Once cases reach court children can lack robust independent safeguarding of their interests due to reduction of standards of experience, time and skills in Cafcass.
- Children lack access to independent representation post-care proceedings. Their views and wishes must be heard in decision-making about their lives. Placement orders should be revoked if children have not been placed for permanence within twelve months.
- Provision of good quality practical and therapeutic support, including financial support, is essential to enable carers to meet the often challenging needs of children who have experienced abuse and neglect. All types of permanent placement need access to such services because the children will have similar needs on a 'level playing field' basis, regardless of which order secures the placement. There should be a duty on local authorities to provide support services in addition to assessment.

Summary of legislative changes proposed in this response

- There should be a new legal requirement for the child's case to be returned to court if the placement order is made but the child is not then placed within twelve months of the order being made. This would help to avoid delay and address the problems of '*statutory orphans*' identified in the case in which two brothers remained under the freeing orders for 11 years suffering abuse in foster care and multiple placement change but no permanent placement was achieved. ([2012] EWHC 1689 (Fam), *Re A & S and Lancs. CC*).
- Greater independent representation for children during adoption proceedings.
- There should be a duty on local authorities to meet assessed support needs for children in permanent placement.
- Implement s.11 of the Children and Young Person Act 2008 that provides for the IRO service to be removed from local authorities and established with an independent provider.
- An amendment to s.119 to ensure the independence of advocacy services would increase safeguards by enabling children and young people to trust the system and to initiate help themselves.
- Parents to require leave of the court before being able to make a contact order in special guardianship.
- A review of the regulations relating to adoption support agencies provided by small providers comprising fewer than six practitioners with a view to making them more appropriate and reducing the bureaucratic element.

Background

a. *Do we have the right structure for adoption?*

1. When a child comes in to public care the current approach embodied in law remains a sound one: a return to parents should be considered first, followed by care with extended family members or friends, and then care by non-related carers, adoptive or foster parents. Research and practice provide evidence about the comparative outcomes, costs and benefits of these options for children taking into account a range of factors such as age and background history¹.
2. It is permanence that provides the 'gold standard' of security, continuity and a sense of belonging for children who have to go through the loss, disadvantage, damage and distress that children in the looked after system experience. Whatever the avenue used to provide permanence or the legal order which secures the placement, those caring for the child should have a similar level of entitlement to support services, including finance. They will require support as the children often need a higher level of care because of their early experiences of abuse and neglect. The order alone should not determine the level of support.
3. Adoption needs to be seen in context as just one of the options for permanent care. It must be carefully considered for each child whose needs may be best met through adoption. An over-emphasis on adoption can direct attention and resources away from the very varied needs of the whole range of children looked after by local authorities. Adoption is not a realistic option for many children for reasons such as their age, other needs, their wishes or sense of family identity. The other permanence options - kinship care, long-term fostering, and less frequently residential care - also successfully provide loving, stable care for very many children. The children in these placements need access to skilled support and proper financial provision just as much as children who are adopted.
4. The Children Act 1989 remains a sound piece of legislation, whose careful drafting has meant it has stood the test of time. Adoption comes as a second stage in the legal proceedings, after the initial decision that a child cannot be cared for within their own family. The two-stage legal process is appropriate for such a fundamental decision, affecting a child's core identity as well as the human rights of child and their family members. Recent government focus on adoption reflects concern about the delay in children achieving their permanent adoptive placement. There is always likely to be some tension between the desire to achieve speedy security for children and ensuring the decision is a fair one that is soundly based.
5. One of our overriding and unifying concerns is that legislative safeguards put in place to protect children and their interests should be sufficiently robust to be fit for purpose. In order to do this the whole system must dovetail together to form a coherent working whole which is informed by, and compliant with, the principles laid down for the welfare and rights of children by international convention and domestic legislation.

¹ E.g. *Characteristics, outcomes and meanings of three types of permanent placement – adoption by strangers, adoption by carers and long-term foster care*, Nina Biehal, Sarah Ellison, Claire Baker and Ian Sinclair, Research Brief DCSF-RBX-09-11 (2009)

b. *Should we be concerned about the falling number of adoptions? Why are the numbers falling?*

6. The reduction in numbers of adoption orders comes at the time that special guardianship orders provide a new avenue to permanence and one that has been very successful. Nagalro members told us they see this as a reason for a decline in use of adoption orders but not necessarily a decline in permanence for children, a view that receives support in Ofsted's recent report "*Right on time: exploring delays in adoption*"²

"The number of children placed for adoption fell to 2,450, a decline of 10% since 2007... The decrease in adoption figures has coincided, however, with an overall increase in the use of all permanence orders, including special guardianship orders and residence orders. DfE statistics reveal a 27% increase over the last five years, including a 9% increase since 2010. There was a 35% increase from 2010 in the number of looked after children who became subject to special guardianship orders..."

7. Nagalro would caution against an over-simplistic view of what can be complex situations. Children need timely plans made for their future, based on good evidence and sound professional judgment. Inadequate professional scrutiny from social workers, children's guardians and judges or over-hasty decisions will risk miscarriages of justice and undermine confidence in the system. Adoption can be favoured as a less expensive option by those holding the purse strings. Skimping on resources for quality assessment and support to placements will fail children and increase placement breakdowns, leaving children to bear the true cost of economies.

Legislation

8. The Adoption and Children Act 2002 has been mixed in its effectiveness. It has provided a broadly sound framework for adoption. Benefits include:
- adding domestic abuse to the welfare checklist
 - providing an adoption-focused checklist for adoption proceedings
 - requiring local authority (LA) provision of a range of adoption support services
 - setting out responsibility between local authorities for provision of financial and support services over the long term
 - the duty on local authorities to assess for adoption support services.
9. Less successful aspects:
- Placement orders, which are often perfunctory add-ons to care order hearings. Children's support needs often receive less scrutiny than they deserve at this stage.
 - Lack of independent representation for children once the placement order is made, which is often early in the adoption process, at the care order stage. This means a lack of independent scrutiny of the adoption support plans and no independent check at the adoption hearing.
 - That provision of adoption support services is not a duty on LAs, nor is provision of support services to special guardians.

² *Right on time: exploring delays in adoption* paras 5-6, p9, Ofsted 2012

- The regulatory framework for adoption support agencies has been drawn up in a way that has disadvantaged many smaller providers of therapeutic support. The excessively bureaucratic approach has led to a loss of skills and expertise available to adoptive children and families.
- Parents can make repeated applications for contact after a special guardianship order is made and the special guardians have to fund their own legal advice.
- S118 Adoption and Children Act 2002 introduced the IRO service as a safeguard for children looked after by local authorities. In the event of breaches of children rights the 2002 Act enabled IRO's to refer cases directly to Cafcass legal which has only been used nationally 8 times between 2007-11. Cafcass legal could bring an action on behalf of the child under the Human Right 1998. To date there have been no such applications and there is considerable evidence to demonstrate that the capacity of the IRO service to identify drift and act as an effective independent safeguard in the system is being effectively and consistently undermined by the potential conflict of interest between the local authority and the interests of individual children in its corporate care.
- Similarly, although s119 Adoption and Children 2002 established the right of looked after children to an advocacy service it did not stipulate that that service should be independent of the care authority. There is evidence to demonstrate that children do not trust in-house services.

10. Nagalro would like to see the following changes:

- There should be a new legal requirement for the child's cases to be returned to court if the placement order is made but the child is not then placed within twelve months of the order being made. This would help to avoid delay and address the problems of '*statutory orphans*' identified in the case in which two brothers' contact with their family was severed but no permanent placement was achieved. They remained under the freeing orders for 11 years suffering abuse in foster care and multiple placement change. The judge HHJ Jackson found that both the local authority and the IRO had failed the boys. (*[2012] EWHC 1689 (Fam), Re A & S and Lancs. CC*).
- Greater independent representation for children during adoption proceedings.
- There should be a duty on local authorities to meet assessed support needs for children in permanent placement.
- A review of the regulations relating to adoption support agencies provided by small providers comprising fewer than six practitioners with a view to make them more appropriate and reduce the bureaucratic element.
- Implement s.11 of the Children and Young Person Act 2008 that provides for the IRO service to be removed from local authorities and established with an independent provider. The model for Children's Representation Units established alongside each care centre proposed by Nagalro and the Interdisciplinary Alliance for Children to the Family Justice Review offers one possible structure.³
- An amendment to s.119 to ensure the independence of advocacy services would increase safeguards by enabling children and young people to trust the system to initiate help themselves.
- Parents to require leave of the court before being able to make a contact order in special guardianship.

³ Attached as appendix: IAC Child Representation Units diagram (final) 17 Dec 2010

11. Overall, however, we think it is better practice rather than more legislation that is likely to improve the situation for children. Piecemeal legislative change too often brings unintended consequences that confound the good intentions. Reducing court scrutiny is problematic for children, especially those where adoption being considered who are among the most vulnerable, because they lose statutory independent safeguarding mechanisms that provide the means to challenge inappropriate decisions.
12. The best legislative framework may be ineffective if there are not sufficient human and other resources to implement the provisions effectively. Both local authority social service departments and Cafcass continue to be under enormous and unremitting pressure and this has an inevitable impact on the quality of the decision-making and the service received by individual children.

Time taken in placing children

a. *Is excessive time taken in placing children? Do some groups of children take a disproportionate length of time?*

13. Delays can occur at any stage in the adoption process. The causes of delay are complex and a 'blame game' is played with local authorities blaming the courts and vice versa for delay. There are also considerable variations between local authorities in all aspects of their practice. Clearly the children with more complex needs take longer to place. These tend to be children with special needs such as those due to disability, emotional and behavioural difficulties, those with foetal alcohol or parental drug use-related conditions, sibling groups and children with minority ethnic heritage.
14. In Nagalro's view the search for process-driven solutions is inevitably flawed. Professional expertise and effective independent judgment are the core essentials together with sufficient resources to provide them early on and at key times. Thorough, skilled and well-informed assessments of all the options for permanence for each child come too late into the system. If this work was undertaken at the start of cases by social workers with experience and appropriate specialised training it would provide a more secure foundation to the subsequent decision-making of the local authority and could be presented to courts with confidence.

b. *What aspects of the adoption process, including pre-process care proceedings, take most time?*

15. The experience of Nagalro members is that too often there is considerable delay for children before a decision is taken to initiate proceedings. In Ofsted's inspection in nine authorities⁴ they found significant delay in 26% of cases. Causes include inexperienced social work staff who lack the specialised training and skills to assess complex cases and make accurate judgments about the possibility of parental change, workload pressures and budget cuts which lead to a reactive, 'firefighting' culture in hard-pressed local authority teams, uncertainty about thresholds, and lack of confidence about what constitutes evidence. 'Start again syndrome', identified by Brandon et al in their review of serious case reviews⁵, comes from social work lacking

⁴ *Right on time: exploring delays in adoption* paras 18, p12, Ofsted 2012

⁵ DCSF (2008) Brandon M et al *Analysing child deaths and serious injury through abuse and neglect: what can we learn? A biennial analysis of serious case reviews 2003-2005*

confidence and purpose combined with frequent changes in personnel and allows children to remain in neglecting and abusive families for lengthy periods. There will also be parents who would be more able to make changes within the timescale of their children if skilled parental support and therapeutic resources were available locally and in a timely way.

c. Do the various parts of the system – local authorities, adoption agencies, courts and others – work effectively together?

16. Nagalro members report situations where local authorities inappropriately seek to avoid legal proceedings, possibly to reduce costs. This can be by use of sec 20 accommodation or by encouraging relatives to seek private law orders. Both these options can be valid responses to children's needs in the right situation. Nagalro's concerns come from the cases where children drift for lengthy periods in s. 20 care without proactive or purposeful assessment and planning for their future. Children lack the independent safeguarding of their interests that court proceedings offer through the Children's Guardian and the court's scrutiny. The Independent Reviewing Service has not acted as an effective protection for children in these cases and too often fails to provide robust challenge to poor local authority practice as the recent judgment in [2012] EWHC 1689 (Fam) Re A and S⁶ illustrates.
17. Some relatives who express interest in caring for children where there are safeguarding concerns report being put under pressure to seek a residence order when care proceedings would be more appropriate. Children will not necessarily have their voices heard in such proceedings, and they lack their own solicitor and guardian who together will safeguard their legal and welfare interests in care proceedings. Public law proceedings enable thorough assessments of the ability of relatives to protect children and to manage contact with parents safely.
18. The longer that children are left in situations of emotional abuse, serious neglect and domestic violence the greater the damage to their emotional and physical wellbeing. Recent research⁷ has shown that early neglect and abuse can permanently affect children's brains and all aspects of their subsequent development. The task of looking after these children will be much more complex and challenging for those who take on their care.

d. Could the adoption process be speeded up, whilst ensuring that necessary safeguards are preserved?

19. Once care proceedings start the court needs adequate evidence and assessments on which to base their decision. 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. Since 2003 and particularly with the Public Law Outline of 2008, protocols have been in place identifying local authority assessments that should be undertaken prior to proceedings. This has so far not been achieved. One major reason is the lack of social work expertise early on in the process of work with families. Too often the initial work is not found to be of sufficient

⁶ <http://www.bailii.org/ew/cases/EWHC/Fam/2012/1689.html>

⁷ For example Glaser, D. (2000), Child Abuse and Neglect and the Brain—A Review. *Journal of Child Psychology and Psychiatry*, 41: 97–116.

quality and has to be redone. Options for friends and family care have not been adequately, if at all, assessed. Sometimes local authority staff get stuck in entrenched conflict with parents and/or the wider family, which can lead to intransigent views and arbitrary decisions.

20. There are those who could provide the level of expertise required. Many of them work as independent social workers (ISWs) some within the family courts; others run their own practices, work as sessional workers for voluntary agencies, or for local authorities. Many Nagalro members are ISWs in the family court sector, although many have recently withdrawn from this work because of the Legal Services Commission's attitude to social work expertise and savage fee reductions of 30-50%. We have written to ministers⁸ to alert them to the significant spare capacity in this sector that is not being deployed because of structural barriers. We believe this valuable part of the workforce need to be 'stitched in' to the system in order to stem the loss of the most experienced ISWs and redirect their skills to enable courts to meet new targets.

21. Recent research by Dr Julia Brophy and her team at Oxford University⁹ refutes many of the assumptions made about the work of ISWs. The research found that:

- There was no evidence that ISW reports cause delay to court hearings
- ISWs produce high quality reports to tight deadlines
- ISWs provide new information to the court
- There was no evidence of routine duplication with a current local authority core assessment
- ISWs have 'added value': they are independent, highly skilled and experienced (median 24 years in child protection work)
- They are child focused and successful in engaging parents with a history of non cooperation with local authorities
- Most instructions were joint, involving parents, the local authority and the child/children's guardian and ISW appointments rarely result from parents seeking second opinion evidence based on human rights claims.

22. Nagalro, BASW and CISWA-UK wrote to Ministers Tim Loughton and Jonathan Djanogly on 2 May 2012¹⁰ to say:

"This shows ISWs have a positive contribution to make towards the government's modernisation agenda for improving the operation of the family courts. Without them, it is more likely that court timetables will be extended by a lack of evidence, e.g. core assessments, and work from inexperienced staff that has to be redone: wrong decisions for vulnerable children and miscarriages of justice are more likely. Far from causing delay, the use of ISWs in complex cases can play a significant part in assisting courts to reach timely and sound decisions."

⁸ See appendix: Letter 2 May 2012 to Tim Loughton and Jonathan Djanogly from Nagalro, BASW and CISWA-UK

⁹ Brophy, J., Owen, C., Sidaway, J. and Johal, J., (2012) *The Contribution of Experts in Care Proceedings: Evaluation of the work of independent social work assessments* University of Oxford

¹⁰ See letter attached as appendix

e. *How widely used is concurrent planning? What are its advantages and disadvantages?*

23. Concurrent planning is well-established across the country as a principle although its operation in practice can be haphazard so that the intention to undertake concurrent planning is not translated into robust action, allowing delays to occur.
24. Concurrent placement projects or 'fostering to adopt' schemes, in which the government has recently expressed interest, are very rare. Such schemes clearly can benefit children because they minimise disruption to their attachments. In suitable cases, where issues of contact can be managed safely, and where potential adopters are able to act in a way more akin to foster carers in supporting the option of rehabilitation and living with some uncertainty about the outcome while remaining emotionally open to the child, fostering to adopt has much to offer. There are considerable training issues for potential adopters, who will have to face more complex issues about what sort of parent they are for a child at different stages of the process, and also for social workers running such schemes.
25. Concurrent placement raises the question of how accurately the permanence plan for a child can be identified at an early stage, because 'fostering for adoption' schemes would not be best suited to cases where there is a reasonable possibility that a child will be cared for in a family and friends placement. There will always be a proportion of cases which change outcome in unpredictable ways. It will be an option in only a proportion of cases, and will require sufficient safeguards and expertise in place to handle properly the legal, practical, and human rights issues as well as the complex family dynamics.

f. *What are the reasons for the variations in time taken to place children by different local authorities?*

26. Nagalro has consistently drawn attention to the very great disparities between local authority performance in relation to all aspects of their work. Even within one authority there can be considerable variation between teams.

The number of potential adopters

27. There are not enough adopters available and new and imaginative ways are needed to recruit the right kind of people who can provide what children waiting for adoption need. For example adopted adults tell us how important sibling relationships and their loss are for them. Specialist agencies have had success in recruiting families able to take on sibling groups.
28. We are concerned that too much stress may be laid on the issue of transracial placements. Feedback from adopted people helped social workers to realise that sensitivity to issues of ethnicity, colour and culture is a crucial attribute to be assessed when considering potential adopters. With each placement a balanced view needs to be taken of what is the best that can be achieved in finding a placement that will meet as much as possible of a child's needs within a reasonable timescale for the child.

29. It is right that some people considering adoption will drop out during the assessment process because the process has helped them to realise that adoption is not right for them, or to be counselled out. Some may realise that “love is not enough” on its own and that adopted children often bring challenges requiring a therapeutic approach, high level parenting skills and considerable determination and persistence without apparent reward over a long time.
30. Adoption agencies have pioneered new ways of working while retaining very skilled practitioners in frontline practice. The fact there are a number of smaller agencies may well contribute to the retention of a skilled workforce in this field. Smaller units are better able to provide a more flexible, personal and responsive service, which many people prefer. A range of different agencies provides choice for potential adopters and the chance for some specialisation between agencies. We would be cautious about moving too far towards centralisation or uniformity as there is much to be lost, as is apparent from the difficulties with Cafcass. Some functions may be provideable on a national basis, as with the adoption register, and a clearing house for prospective adopters may assist.
31. Greater knowledge about early development may be contributing to the increase in care applications as social workers better understand the harm children suffer from exposure to neglect and emotional abuse. This knowledge needs to inform practice and influence the timing and purposefulness of social work and legal interventions with parents. It may be making potential adopters more cautious about coming forward as more becomes known about the challenges of caring for children damaged pre-birth by substances as well as afterwards by neglect and abuse. It becomes all the more important that society invests in preventive work, to educate parents and others about harmful behaviour and increase parenting support programmes as well as specialist interventions like Parent-Infant Psychotherapy and the Family Nurse partnerships.

Court proceedings

32. Often court proceedings do take undue time in the adoption process but there are many causes of delay and there is no single solution to the problem. A core problem is the poor quality or lack of availability of an adequate core assessment to inform care planning and court decision-making. This in turn may be the result of poorly supported workers lack of training, experience and expertise or sheer pressure of work. It is not possible to legislate for experience or ensure that the services and resources are in place to support the assessment of the child’s needs.
33. The welcome recommendations for improvements in social work training made by the Munro review of child protection will take a decade to have any perceptible impact. Moreover, the evidence on outcomes for looked after children do not support the proposition that external scrutiny of local authority decision-making is superfluous.
34. We are extremely concerned about the FJR recommendation aimed at reducing the level of court scrutiny of local authority decision-making. We say this because we fear that it will constitute a significant weakening of the safeguards available to children in proceedings.

35. Following from the above there would be a concomitant reduction in the involvement of the children's guardian in court proceedings. This means that another core safeguard for children will be substantially weakened.
36. The provisions for the representation of children by children's guardians are legislatively sound but as the Chief Executive of Cafcass said in his oral evidence on 17 July, although cases may be allocated, the time that guardians can spend on each case is limited and the quality of the Cafcass case analysis needs to be improved. The Cafcass Operating Framework introduced on 1 April 2012 legitimises a restricted model of proportionate working which is at odds with the legislative framework and which makes it clear that this is now a different and much more limited service.¹¹
37. The quality of the Cafcass analysis is likely to become an increasingly significant issue given the drive to reduce the number of experts in proceedings.

Post-adoption support

a. How, if at all, has the 2002 Act impacted upon the provision of post-adoption contacts and support?

38. The 2002 Act has led to greater awareness of and a framework for post-adoption support, although its provision is patchy and limited. It is hard for adopters to find appropriate support services in many parts of the country because specialist services are still scarce and inadequately resourced.

39. Centres such as the Post Adoption Centre and Family Futures have done much to raise awareness of specialist training and to make it accessible to practitioners whether employed by local authorities, voluntary agencies or independent practitioners. The unnecessarily bureaucratic process for registration for smaller adoption support agencies has discouraged many trained and skilled practitioners from continuing to offer adoption-related services.

b. Are measures needed to enhance post-adoption financial and other support for (i) adopted children; (ii) adoptive parents, (iii) birth families?

40. A major drawback is that local authorities are only under a duty to assess for support services, and Nagalro would recommend that there should be a duty to provide such services. Funding of services is a major limitation to availability.

41. The framework for registration should be reviewed with the aim of facilitating a wider network of well-trained individuals and good quality smaller therapeutic agencies with a sound understanding who can provide skilled help for adoptive families, adopted children and birth families.

¹¹ *O guardian, where art thou?* Martha Cover, article in Seen & Heard, Vol 22 Issue 2 – sent with response

Inter-country adoption

42. We think the three-tier system is clear. It is good that countries that had poor practice, such as Guatemala are no longer providing children to be adopted in this country.
43. The legal process is quite straightforward at the moment. There need to be enquires to safeguard the interest of the child.
44. In Russia it is illegal for contact to be made with the birth parents after an order is made. An adopted adult may have the expectations that their position will be similar to that of an adult adopted through the English system and experience frustration in adulthood. Adopters will need to explain this as they provide information in an age appropriate form as the child matures. Children coming from war torn regions where there may be histories of genocide may need help to develop a positive self-image and not to internalise a sense of being rescued.

Access to Information

45. The Act has enabled a cultural change in that it is now viewed as quite normal to seek to “put the jigsaw together” and go on to seek to meet birth relatives. Birth mothers now have the right to request a service. However, Facebook, social media and other means of internet communication are now presenting challenges to parents of adopted children and can mean adults proceed without the benefit of post-adoption advice.

Other permanent placements

a. What has been the effect of the introduction, in the 2002 Act, of ‘special guardianship’?

46. Special guardianship has provided a very useful avenue to permanence for children within the extended family or with foster carers. In so doing it can meet children’s needs in relation to both attachment and identity, as it can provide ongoing relationships with birth parents within a secure family. This is why it has been a successful option, with the explicit guidance that special guardians are “in the driving seat” for all important day to day decisions about a child’s education, schooling and so on, with the few exceptions clearly identified.

b. Is special guardianship an effective alternative to adoption, especially for those of school age (ie 5 and older)?

47. Special guardianship does provide an effective alternative to adoption for children who retain a sense of family loyalty and could not therefore contemplate the severance that being adopted would involve. The weakness of special guardianship is in relation to contact, as it can leave special guardians open to challenges from parents via repeated court applications where they are liable for legal costs.
48. There are anecdotal accounts of a few situations where dysfunctional parents have been allowed to resume close relationships with children either because of collusion

by special guardians or where parents have exerted inappropriate influence over special guardians.

49. A more frequently voiced concern is that local authorities apply pressure to long-term foster carers to apply to become special guardians for children in permanent placement. Such pressures often do not appear to be child-centred but are an attempt to limit LA expenditure on fostering allowances and responsibility for monitoring and supporting the placement.

c. What is the best way to ensure permanent and consistent placements for children?

50. Having the right kind of support available is key to ensuring placement stability, especially where children have challenging needs. Research shows that financial support and ready access to help with contact and managing children's complex emotional and behavioural needs are the major pressure points for long-term placements, both kinship and unrelated foster and adoptive placements. Special guardianship families need just as much skilled help and practical, financial support in place. We agree with much in the Family Rights Group submission in this area: the children's needs are similar and their carers should receive an equivalent level of support regardless of the type of order securing the placement. Good preparation and assessment of adopters, foster and kinship carers and availability of ongoing support from well-trained social workers is vital.

d. Would earlier interventions in cases of children with difficulties have an effect on the number of children who need to be adopted or otherwise permanently separated from their birth family?

51. Each child and each case needs to be considered on its own unique circumstances. Practice needs to be based on evidence and learning from research about what works. Early intervention and access to skilled family support should be available to parents to enable more children to stay in their birth family but on a time-limited basis so that consideration of permanence outside the birth family takes place before children suffer significant damage. Those undertaking direct work with families tend to be less well-qualified staff even though the task is particularly complex.

Monitoring

a. Do 'adoption scorecards' provide an appropriate means for monitoring the performance of local authorities with regard to adoption?

52. The question is not whether or not enough children are being adopted but whether or not the right children are being adopted within a timeframe which meets their needs. For this reason we would be against the introduction of 'adoption scorecards' which could skew the focus away from the needs of each particular child in order to meet the targets imposed by an overarching management objective. This also runs counter to the whole thrust of the Munro report.

53. Scorecards risk being a blunt instrument that leads to a 'one size fits all' culture and a disregard of significant differences between areas. A system could be instigated as in the case of local authority audits where a 'family' of authorities could learn from one another about good practice.

- 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?

54. Statistics in this area of practice are notoriously complex and open to manipulation by those with an ideological axe to grind. The system needs to provide information about how long children wait at all stages of their journey through care to permanent placement. How delay is assessed and measured will affect the results.
55. Information about placement breakdowns also needs to be collated and to take account of the wide range of ways in which this may happen. Children may go to live informally with other families, they may make their own way back to their birth family, they come back into care – which should be readily captured although this does not appear to happen at present, they may go to live in 52 week a year education-funded placements such as boarding schools for those with emotional and behavioural difficulties, or in mental health facilities or in youth offending accommodation.

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24 July 2012

Supporting documents sent

Characteristics, outcomes and meanings of three types of permanent placement – adoption by strangers, adoption by carers and long-term foster care, Nina Biehal, Sarah Ellison, Claire Baker and Ian Sinclair, Research Brief DCSF-RBX-09-11 (2009)

O guardian, where art thou? Martha Cover, article in *Seen & Heard*, Vol 22 Issue 2 (2012)

Letter 2 May 2012 to Tim Loughton and Jonathan Djanogly from Nagalro, BASW and CISWA-UK

IAC Child Representation Units diagram (final) 17 Dec 2010