

Children and Young People Committee

Meeting Venue:
Committee Room 1 – Senedd

Meeting date:
21 June 2012

Meeting time:
09:00

Cynulliad
Cenedlaethol
Cymru

National
Assembly for
Wales



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Agenda

1. Introductions, apologies and substitutions (9.15)

2. Inquiry into adoption (9.15 – 9.45) (Pages 1 – 10) **Children’s Commissioner for Wales office**

Dr Sam Clutton, Policy Officer

Nia Lloyd, Policy Officer

3. Inquiry into adoption (9.45 – 10.30) **Educational Psychologists**

Erica Beddoe – Educational Psychologist

Gaynor Davies – Head of access and inclusion services at Rhonda Cynon Taf CBC

(Break 10:30 – 10:45)

4. Inquiry into adoption (10.45 – 11.30) (Pages 11 – 19) **British Association of Social Workers, Cymru**

Jean Letton – BASW–Cymru Committee Member & Independent Social Worker

Penny Lloyd – BASW–Cymru Ambassador & retired Social Worker

5. Inquiry into adoption (11.30 – 12.15)

Association of Directors of Education Wales

Karen Williams – Children’s Directorate, Bridgend County Borough Council

6. Papers to note (Pages 20 – 23)

School Standards and Organisation (Wales) Bill: Additional information from Estyn

Comisiynydd Plant Cymru Children's Commissioner for Wales

Keith Towler

Evidence to inquiry:

February 2012: National Assembly for Wales' Children and Young People Committee: Adoption Inquiry

The Children's Commissioner for Wales is an independent children's rights institution established in 2001. The Commissioner's principal aim is to safeguard and promote the rights and welfare of children.¹ In exercising their functions, the Commissioner must have regard to the United Nations Convention on the Rights of the Child (UNCRC).² The Commissioner's remit covers all areas of the devolved powers of the National Assembly for Wales insofar as they affect children's rights and welfare. They may also make representations to the National Assembly for Wales about any matter affecting the rights and welfare of children in Wales.³

The UN Convention on the Rights of the Child (UNCRC) is an international human rights treaty that applies to all children and young people aged 18 and under. It is the most widely ratified international human rights instrument and gives children and young people a wide range of civil, political, economic, social and cultural rights which State Parties to the Convention are expected to implement. In 2004, the Welsh Assembly Government adopted the UNCRC as the basis of all policy making for children and in 2011, Welsh Government passed the Rights of Children and Young Persons (Wales) Measure⁴.

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This response is not confidential

¹ Section 72A Care Standards Act 2000

² Regulation 22 Children's Commissioner for Wales Regulations 2001

³ Section 75A (1) Care Standards Act 2000

⁴ <http://www.assemblywales.org/bus-home/bus-legislation/bus-leg-measures/business-legislationmeasures-rightsofchildren.htm>

Response

Key messages of response:

- The best interests of the child must remain the principle concern driving change. There is a need to provide a better response to those children for whom a decision has been made that adoption is in their best interests so that delays are reduced and adequate support is provided to them and their adoptive families.
- We need to look at the adoption system through a children's rights lens and use the UNCRC as a framework to underpin all decision-making processes in all areas where children and young people's best interests should be placed as the paramount consideration. Adoption law should ensure that all Articles of the UNCRC are fully realised by children and young people experiencing this process, especially Article 21.
- The child's right to be heard and engaged in decision-making processes need to be consistently recognised and effectively implemented and that the Welsh Government and other agencies act on this. Children and young people must gain access to age-appropriate information to help them understand the process of adoption and what they can expect. The Committee should seek assurances that the practice of promoting profiles of children and young people through various media is respectful of their right to privacy and that this method is evidenced-based.
- The proposed introduction of a National Adoption Agency should improve situations where children with an adoption plan have to wait for long periods to join an adoptive family. Welsh Government should actively seek the views of children, young people and adoptive parents to inform the development of this new service.
- There must be a positive response to the findings of the Family Justice Review in relation to the need for a return to child focussed decision making and improvements in processes in public law proceedings to reduce the delays that are common in the current system.
- There is a need to consider the introduction of duties to ensure that adopted children and their families receive appropriate, robust and sustained post-adoption support. I am particularly concerned about a lack of response towards the additional needs of adopted children in education settings and barriers to support in relation to children's emotional wellbeing and mental health needs.

Rights of children and young people

- Do the current arrangements for adoption adequately reflect the rights of the child?

All children and young people have their rights laid out within the UNCRC, ratified by the UK State Party in 1991. The Rights of Children and Young Persons (Wales) Measure 2011 demonstrates a commitment from the National Assembly and Welsh Government to ensure that the rights of children and the UNCRC as a framework for change forms the basis of all decision-making processes by initially placing a duty of 'due regard' on all Welsh Ministers from May 2012.

Decisions made by Welsh Ministers will need to reflect their obligation to comply with the 'due regard' duty in Section 1 of the Measure. Ministers will need to examine how they can utilise their functions which are exercisable by them to give better effect to the rights and duties of the UNCRC. It is expected that this duty will help ensure that all decisions made across policy areas in Wales reflect a children's rights approach.

Best interests of the child:

It is clear that the Adoption and Children Act (2002) helped to align adoption law with the principles of the Children Act 1989 by placing the needs and welfare of the child as the paramount consideration. By doing so, adoption law should also ensure that Article 21 of the UNCRC is fully realised by children and young people experiencing this process.

Article 21 of the Convention specifically refers to the best interests of the child as the paramount consideration:

States Parties that recognize and/or permit the system of adoption shall ensure that the best interests of the child shall be the paramount consideration and they shall:

(a) Ensure that the adoption of a child is authorized only by competent authorities who determine, in accordance with applicable law and procedures and on the basis of all pertinent and reliable information, that the adoption is permissible in view of the child's status concerning parents, relatives and legal guardians and that, if required, the persons concerned have given their informed consent to the adoption on the basis of such counselling as may be necessary;

(b) Recognize that inter-country adoption may be considered as an alternative means of child's care, if the child cannot be placed in a foster or an adoptive family or cannot in any suitable manner be cared for in the child's country of origin;

(c) Ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption;

(d) Take all appropriate measures to ensure that, in inter-country adoption, the placement does not result in improper financial gain for those involved in it;

(e) Promote, where appropriate, the objectives of the present article by concluding bilateral or multilateral arrangements or agreements, and endeavour, within this framework, to ensure that the placement of the child in another country is carried out by competent authorities or organs.

The Family Justice Review Panel⁵ considered how this was reflected in practice, concluding that the aim to place the best interests of the child must be put back at the heart of all decisions. The final report demonstrates public law proceedings, despite being hugely complex and under increasing pressure, must provide for a system which:

- “is resolutely child focused;
- refuses to accept delay as commonplace;
- takes responsibility for the use of resources, to make best use of every pound;
- operates in a collaborative way across agencies;
- is consistent in its delivery; and
- respects parents’ rights, and offers them effective support.”⁶

Applying these proposals in practice will also ensure that Article 3 of the UNCRC can be fully realised for all children and young people caught up in family law proceedings. This stipulates that:

1. In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration.
2. States Parties undertake to ensure the child such protection and care as is necessary for his or her well-being, taking into account the rights and duties of his or her parents, legal guardians, or other individuals legally responsible for him or her, and, to this end, shall take all appropriate legislative and administrative measures.
3. States Parties shall ensure that the institutions, services and facilities responsible for the care or protection of children shall conform with the standards established by competent authorities, particularly in the areas of safety, health, in the number and suitability of their staff, as well as competent supervision.

This Article of ‘best interests of the child’ also forms one of the Conventions’ general measures of implementation and can be found throughout the Convention. This means that State Parties, through ratification of the UNCRC, are obliged to ensure that the principle of best interests is systematically considered in all relevant decision-making processes, above all in family law⁷. The general measures of implementation identified by the UN Committee on the Rights of the Child are intended to ensure effective implementation of the UNCRC and promote the full enjoyment of all rights in the Convention by all children⁸.

We need to look at the adoption system through a children’s rights lens and use the UNCRC as a framework to underpin all decision-making processes in all areas where children and young people’s best interests should be placed as the paramount consideration. Through ensuring this in adoption processes, all other Articles of the UN Convention should be realised by children and young people. However, it has come to my attention that some areas of this process are not necessarily reflecting the rights of these children and young people in relation to provision, participation and protection.

The child’s voice & engagement

The voice of the child is a hugely significant element to all decision-making processes that will impact on their lives. We as adults should not be scared of participation but we need to recognise that this does not have to be overly complicated as members of the Powys Youth Forum once told me:

⁵ The Family Justice Review panel was appointed to review the whole of the family justice system in England and Wales, looking at all aspects of the system, from court decision on taking children into care, to disputes over contact with children when parents divorce. It was commissioned by the Secretaries of State for Justice and Education and the Welsh Government Minister for Health and Social Services. The Children’s Commissioner for Wales was appointed to represent children’s interests and provide a Welsh perspective on the panel’s work.

⁶ <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf> (2012:14)

⁷ Zermatten, J. (2010) *The Best Interests of the Child: Literal Analysis, Function and Implementation*, Institut International des Droits de L’enfant.

⁸ UN Committee on the Rights of the Child (2003) *General Comment No.5*, Geneva.

“Participation feels like a posh word invented by adults but actually what we are talking about here is children and young people being a part of things. Speaking out and being heard and listening to the views of others. It’s simple really.”

In November 2011, the UK Children’s Commissioners published a midterm report to the UK State Party on the UNCRC. Our joint report, *‘The story so far’*⁹ collected evidence and focused our work on five areas, including participation. We used this joint report to express concerns about the gap between the standards of Article 12 and children and young people’s actual experience.

Article 12 of the Convention specifically relates to participation and states:

1. States Parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.
2. For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

Part two of the Article refers specifically to the voice of children and young people in legal proceedings. I remain concerned that the mainstreaming of children’s participation has yet to happen and children continue to report that their views are not sought, listened to or acted upon consistently.

Within the midterm report we referred to evidence from the Family Justice Review in England and Wales that highlights that in both public and private law proceedings children feel that their voices are not heard by adults who are making important decisions about their lives.¹⁰ This clearly demonstrates that children are not having their right upheld fully and causes anger and frustration for the children that their views are not sought. They feel disempowered and disappointed. Children also report not receiving adequate or clear information from adults that could help them to participate in such processes.¹¹ The Children’s Commissioners believe that the child’s right to be heard must be consistently recognised and effectively implemented at all stages in the process and we call on Government and other agencies to act on the voices of children. Our recommendation was as follows:

- R4. Each administration must effectively implement the right of children to participate in legal and court proceedings.

It may also be helpful to highlight a recommendation made by the previous National Assembly for Wales’ Health, Wellbeing and Local Government Committee in its inquiry into Child and Family Court Advisory & Support Service (CAFCASS) Cymru in July 2009. The Committee’s recommendation to Welsh Ministers was to “...ensure that the UK government is fully aware of the need for CAFCASS Cymru to operate as a child-focused organisation and discusses with UK Ministers how the rights of Welsh children in family proceedings and CAFCASS services in Wales can be delivered within a rights-based framework.”. I am aware of CAFCASS Cymru’s recently published strategic plan and their commitment to the UNCRC and ensuring the voice of

⁹ <http://www.childcomwales.org.uk/uploads/publications/277.pdf>

¹⁰ Ministry of Justice (2011) Family Justice Review Interim Report March 2011: London: Ministry of Justice. <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-interim-rep.pdf>

¹¹ Office of the Children’s Commissioner for England (2011c) Do more than listen. Act. London: Office of the Children’s Commissioner for England. http://www.childrenscommissioner.gov.uk/content/publications/content_514

children and young people is heard within the Family Justice Service. However, I believe this current Inquiry into adoption may provide the Children and Young People Committee with an opportunity to scrutinise that the recommendation made by the Health, Wellbeing and Local Government Committee to Welsh Ministers in relation to the voice of the child is being implemented in full.

The Family Justice Review has now concluded that children and young people subject to family law proceedings should as early as possible have the appropriate support to share their views, wishes and feelings. This approach is not new and we should be in a position where every child feels empowered and supported to speak out. This is clearly not demonstrated in all cases. The Family Justice Review has also concluded that appropriate information that explains to children and young people about the proceedings underway in an age-appropriate format should be provided. Again, it is vital that this is developed and delivered to all children and young people who are being adopted.

I am aware that inspections of adoption services carried out by the Care and Social Services Inspectorate Wales (CSSIW) in 2009/10¹² identified some good areas of practice in relation to the inclusion of children's voices and engagement throughout the adoption process. These include the Child's Assessment Reports for Adoption (CARA's), later life letters and life story work, amongst others. However, there remain significant shortcomings amongst many local authorities in Wales. I note that CSSIW often recommend within their reports that in order to ensure more child-focused outcomes in delivery, fuller engagement and participation of children and young people is required. They also consistently highlight the lack of engagement of children and young people in permanency planning meetings and the need to keep children's adoption records up-to-date and ensure that significant events are continually recorded so that an accurate history of the adoption process for the child is available in the future. This has considerable effect on the lives of children and young people who have been adopted. I urge the Committee to seek assurances that improvements are made locally to ensure that the rights of children and young people to having their voice heard and engagement in decision-making processes are in place. Part of this learning process could include developing and promoting feedback from children and young people about their experiences of going through the adoption process.

Lack of age-appropriate information/resources for children and young people about adoption

I would particularly like to highlight the fact that there appears to be a limited amount of age-appropriate information available to children and young people who are going through the adoption process.

I acknowledge the resources available via organisations such as the British Association for Adoption and Fostering (BAAF) and After Adoption yet I am acutely aware of the limited amount of local age-appropriate provision for children and young people. The Family Justice Review makes reference to this particular issue, recommending that:

“Children and young people should be given age appropriate information to explain what is happening when they are involved in cases. They should as early as possible be supported to make their views known and older children should be offered a menu of options, to lay out the ways in which they could – if they wish – do this.”¹³

This is a matter of particular concern and I would encourage the Committee to seek assurances that the recommendations I note above are taken forward and that where good practice exists locally, that this is shared and built upon.

¹² [CSSIW Inspection of Adoption Services local authority reports](#)

¹³ <http://www.justice.gov.uk/downloads/publications/policy/moj/family-justice-review-final-report.pdf>

Right to privacy

Children and young people have the right to privacy as laid out in Article 16 of the UNCRC. This Article stipulates that:

1. No child shall be subjected to arbitrary or unlawful interference with his or her privacy, family, or correspondence, nor to unlawful attacks on his or her honour and reputation.
2. The child has the right to the protection of the law against such interference or attacks.

I am aware that the adoption process currently includes, in some areas, the practice of promoting profiles of children and young people with photographs through various media. The rationale behind this is unclear and I would question the appropriateness and value that this approach adds to informing prospective parents about adoption. I would suggest that such practices are reviewed to distinguish the evidence and rationale behind them and to ensure that they adequately reflect the rights of those children and young people subject to this form of marketing.

Prospective parents:

- What action is needed to encourage prospective parents to pursue adoption as a route?
- How effectively are prospective parents supported throughout the adoption process, particularly through the assessment and approval process?
- What action is needed to ensure that delays in the adoption process can be kept to a minimum?

Adoption legislation and guidance sets out clear criteria in relation to who may be considered as suitable to become an adoptive parent in that they must be over 21 years of age and have no criminal cautions or convictions in relation to offences against a child. Similarly statutory timescale have been set out in relation to stages in the process for prospective parents. Survey evidence published by Adoption UK in 2011¹⁴ suggests that although there is good practice across the majority of local authority and voluntary adoption agencies there is still some cause for concern in relation to the recruitment process practices of one quarter to a third of agencies. Every effort should be made to recruit adoptive parents who can offer children stable, secure and loving homes. Decisions should be based on a thorough assessment of the individual's capacity to understand and meet the needs of the child. The evidence provided by Adoption UK suggests that too many applicants are turned away before a consideration of their capacity to act as a parent to a vulnerable child is made. I am pleased that Welsh Government has signalled its intention to establish a National Adoption Agency. I hope that this will go some way to improving the recruitment of prospective parents so that those children whose best interests are met through adoption have improved opportunities for being matched with an adoptive family. Welsh Government should actively seek the views of children, young people and adoptive parents to inform the development of their plans for a National Adoption Agency.

My Office has received a number of requests for support with the assessment and approval process since 2007. One of the main difficulties for prospective parents contacting my Office relates to a lack of on-going dialogue and access to clear information during the assessment and approval process. I am aware that inspections of adoption services carried out by the Care and Social Services Inspectorate Wales (CSSIW) in 2009/10¹⁵ identified some good areas of practice in relation to support through the assessment and adoption process for prospective parents. However recommendations for a number of authorities included the need to provide clear and understandable information on procedures and processes to prospective parents. One common

¹⁴ Adoption UK, (2011) *Waiting to be parents: adopters' experiences of being recruited*

¹⁵ [CSSIW Inspection of Adoption Services local authority reports](#)

theme running through many of the CSSIW inspection reports is the need for training on adoption and permanency for child care social workers and adoption/permanency panel members. I would suggest that meeting an identified need for training for these professionals is an essential component of improving assessment and approval processes. Consultation with adoptive parents as part of the development work for the National Adoption Agency might be one way of ascertaining if these recommendations have been taken forward by providers. However in relation to the issue of training of childcare social workers and panel members it may be timely to ascertain if local authorities have responded to these inspection recommendations.

Welsh Government statistics evidence a period of 522 days between a 'best interest' decision being made in relation to a child and the adoption of a child in the year ending March 31st 2011.¹⁶ My Office has received a number of requests for assistance from prospective adopters who have been concerned about delays in the process. This includes concerns raised by adoptive parents who have already adopted children and are seeking to adopt their younger siblings – sometimes where there are complex additional needs. There must be a high level drive for and local commitment to identifying ways in which social work professionals can be better supported in terms of expertise and capacity to prepare children for adoption, complete relevant assessments and provide the courts with timely evidence. The Family Justice Review Panel¹⁷ scrutinised in detail the issue of delays in public law proceedings – including those relating to cases where adoption is in the best interests of the child. As a Panel we were clear in our view that delays in proceedings may deny children a chance of a permanent home, particularly through adoption.

We know that such delays can have negative impacts on the child and that there must be systemic change to ensure a resolutely child focused approach which does not accept delays as commonplace. At the same time we must ensure that in seeking to reduce delays in the adoption process we do not commit to a system based on performance measured against the length of the adoption process – to the detriment of thorough consideration of the best interests of the child in each individual child. .

Post-adoption support- adoptive parents and adopted children

- **How effective is the support given to adopted children post adoption, particularly for children with complex needs?**
- **What improvements could be given to the support given to adoptive parents?**
- **In terms of support provided for adoptive families, what has been the most important in securing the permanence of adoptions and to help ensure the success of the placement?**

The majority of children going through the adoption process will have experienced a difficult start in life and many will have been placed for adoption because they have been the subject of abuse or neglect. These children are also likely to have been cared for by a number of different significant adults before living with their adoptive parents. Almost nine in ten children (87 per cent) were adopted by others and not by their former foster carer in 2010-11¹⁸.

Adopted children, are then, a particularly vulnerable group of children in terms of their early childhood experiences and the impact these experiences may have as they grow. They also enter families who may be faced with the challenges of parenting for the first time. Commonly cited estimates have been provided to suggest that across England and Wales up to twenty per cent of adoptive placements breakdown before an

¹⁶ Welsh Government, SDR 166/2011, *Adoptions, Outcomes and Placements for Children Looked After by Local Authorities: year ending 31 March 2011*, Cardiff: Statistical Directorate, Welsh Government

¹⁷ Family Justice Review Panel (2011) *Family Justice Review Final Report*, MoJ, DfE and Welsh Government

¹⁸ Welsh Government, SDR 166/2011, *Adoptions, Outcomes and Placements for Children Looked After by Local Authorities: year ending 31 March 2011*, Cardiff: Statistical Directorate, Welsh Government

Adoption Order is granted with the children returning to the care system.¹⁹ Recently published research²⁰ suggests that there are a number of factors influencing placement instability or breakdown (in relation to long term foster placements and adoption). These include, the age of the child at last entry to care, the severity of the child's emotional and behavioural problems and the strengths and capacities of foster carers and adopters. The same research found that some foster carers were reluctant to adopt the children they cared for due to fears about a loss of support following adoption.

Adoption UK suggests that there is a lack of robust evidence gathered in relation to individual disruptions or breakdowns in adoption in Wales to inform our learning and secure better outcomes for adopted children. We need to find out what is behind adoption breakdown and this must include listening to children, young people as well as adoptive parents. It may be that if adopted children and young people were listened to more during the adoption process and post-adoption –we could secure much lower rates of adoption breakdown.

Under the *Adoption and Children Act (2002)* each local authority must have a post to carry out the functions of the statutory role of Adoption Support Services Advisor- which include the formulation of adoption support plans. The *Adoption Support Services Regulations for England and Wales (2005)* recognise the additional needs of adopted children and imposed a legal duty on local authorities to assess the support needs of adoptive families with whom they propose to place children.

A survey carried out by the All Wales Adoption Support Service in 2010 identified concerns among Adoption Support Services Advisors about a lack of multi-agency engagement regarding adoption support provision and identified the absence of a dedicated budget for adoption support in nearly half of adoption agencies in Wales. My Office has received a number of calls from those involved in the adoption process including foster carers and adoptive parents who have raised concerns about adoption breakdown. These cases have all related to delays in or lack of access to support for families during periods of crisis related to an adopted child's behaviour and parents difficulties in coping with this behaviour.

If we are to secure the best outcomes for adopted children in Wales we must ensure that there is a consistent level of support to meet any additional needs they may have. Adoption UK carried out a survey in 2009²¹ of adoptive parents to look at access to the support services they need. The survey results suggest that adopted children may not always be able to access the support they need to overcome the adversity of their early years or to realise their rights. A number of specific areas which are a cause for concern were identified through the survey. The findings suggest that:

- There is a general lack of understanding of and sensitivity towards the additional needs of adopted children in education settings.
- That there are issues related to access, continuity and consistency of support for adopted children who require help with their emotional wellbeing and mental health needs. This included problems in securing continued therapeutic support where a child moves to a new local authority once an Adoption Order is granted.

These findings are of particular concern to me. Adopted children should be able to access the support they need to enjoy good emotional wellbeing, to reach their educational potential and to realise their rights in all areas of their lives. Research suggests that the severity of a child's emotional and behavioural difficulties may

¹⁹ Ivadi (2000) *Surveying Adoption: A comprehensive analysis of local authority adoptions*, London: BAAF

²⁰ Biehal, N et al (2011) *Belonging and Permanence: Outcomes in long-term foster care and adoption*, Adoption Research Initiative, Summary 1, www.adoptionresearchinitiative.org.uk

²¹ Bell, A and Kempenaar, M. (2010) *Support needs of adoptive families in Wales*, Adoption UK

be largely determined by pre-placement adversity and the length of children's exposure to these adversities²². The provision of post-adoption support will ensure that these children are able to seek the necessary help to overcome their experiences. This research suggests that support services would be most effective if they acknowledge and respond to what children and young people are saying, either through words or through their behaviour; and to support frontline professionals to engage and effectively communicate with them²³.

Packages of post-adoption support appear to be inadequate in many cases and too short in duration where they do exist. Adoptive families have reported via various media the specific difficulties that they can face when the child enters the teenage years. Support needs to move beyond a package of support during the first few years following adoption and acknowledge that some children and young people will need continued support to overcome the adversity of their early years and come to terms with the loss of their birth family as they grow older. Young people also need access to support at the point at which they may decide to seek more information about their birth families or consider contact with birth relatives. Information, advice and support for young people themselves and for their adoptive families is needed to address the emotional challenges that these issues are likely to raise. The Welsh Government should give serious consideration to these issues.

I am aware that the organisation After Adoption UK has received Welsh Government Children and Families Organisation Grant funding to support the infrastructure in Wales to deliver their Safebase parenting programme to adoptive parenting. I understand that the organisation will be looking to form partnerships with local authorities to joint commission the delivery of parenting programmes to new adopters in their area. This is a welcome development and I acknowledge the commitment shown by Welsh Government to supporting this through CFOG. However After Adoption UK have told me that they are finding engagement with local authority partners challenging and that this may threaten the intended roll out of the programme across Wales.

Adopted children often face the same challenges as looked after children but we know that those children who can benefit from a successful adoption have much better outcomes than their peers who remain in the care system.²⁴ There is a case for the specific duties applied towards looked after children in relation to wellbeing, mental health and additional educational needs through Guidance and Regulations issued in 2007²⁵ to be extended to adopted children. This might go some way towards securing better for those adopted children who have additional needs and could contribute to reductions in adoption breakdown and the associated devastation that this causes for children and young people. We should be striving towards minimising upheaval for these vulnerable children and young people by making sure the adoptive family has access to the best support possible to enable them to plan for and meet the child's long term needs.

Adoption can provide security, stability and emotional warmth for many children who cannot grow up in their birth families –we must provide robust and on-going support to these children and their families.

Submission by:

Keith Towler
Children's Commissioner for Wales
3 February 2012

²² Biehal, N et al (2011) *Belonging and Permanence: Outcomes in long-term foster care and adoption*, Adoption Research Initiative, Summary 1, www.adoptionresearchinitiative.org.uk

²³ Ibid.

²⁴ Selwyn, et al. (2006) *Costs and outcomes of non-infant adoption*

²⁵ Welsh Assembly Government, (2007) *Towards a Stable Life and a Brighter Future: Guidance and Regulations on measures to strengthen arrangements for the placement, health, education and well-being of looked after children and young people*, Cardiff:WAG



Consultation for CYP Committee on: Inquiry into adoption

BASW Cymru would like to comment from the position of supporting and being a voice for the social workers that are involved in the adoption process.

The issue of adoption for the child and the delays that are incurred throughout the process are a matter of balance. The balance is between the rights of the child to family life, (article 9) and protection from harm (article 19) U.N. Convention on the Rights of the Child 1989.

It must also be considered that adoption is only one means of securing a permanent placement for a child. The other options are Residence Orders, Guardianship Orders and Long Term Foster Placements.

Much of the delay for children comes from the problems faced by the LAs and the courts in balancing the above rights of the child. For example, many of the children requiring permanent placements come into the care system as a result of neglect or abuse. The LA is then faced with considering rehabilitation of the child with their family as a primary resort. The court when requested by the LA finally to make a Care Order or Placement Order is then faced very often with family and interested parties applying at a late stage for leave of the court to be made party to the proceedings and be assessed as permanent carer/s for the child.

This can be a very lengthy process with many assessments either from the LA or independent expert assessments; sometimes this also involves further rehabilitation plans for the child.

The majority of children that are requiring permanent homes tend to be over 2 years of age. They have many issues resulting from difficult starts in life and this is then compounded by possible changes of carers, and lengthy delays throughout the assessment process of family and the subsequent court process as described above. For their emotional well being, most children when they are ready for a permanent home are in need of support, the right carers and in some cases specialist input.

The Adoption and Children Act 2002 refers to the need for children to have support post adoption. It states that this requires cooperation and joint working from all of the professional interested parties, e.g. health and education. It appears that this is not happening as successfully as the Act would have liked with money and resources being cited as the reason for not providing regular ongoing support for those children placed for adoption or for their adopters. This lack of committed support post placement is then cited in placement breakdowns either initially or for many others further down the line during teenage and these latter figures are unrecorded. When

issues and the need of the child are identified early and support provided, children and their adopters have the opportunity to develop appropriately.

The majority of people who apply to become adopters want this to meet their needs primarily to have their own family. Therefore they are requiring children to be as young as possible, not sibling groups and without any issues disabilities or problems.

As stated above the more delays and the older the child, the more difficulties there are likely to be. So as a starting point the adopters are not getting all that they require of their ideal child. To overcome this and encourage adopters to look beyond the ideal takes careful and skilled social work over a period of time to help people realise what adoption is today and to help them to explore their skills, abilities and emotional flexibility to take on a child that they had not first considered.

Issues that need consideration for change

- Designated recruitment of adopters to take on the older child, sibling groups and children with issues and disabilities.
- Social workers being given the skills, training, time and resources to help adoptive applicants explore their capacity and flexibility for adoption.
- Clearer guidelines for social workers and courts on the content and number of assessments and rehabilitation carried out on family members both for the LA and the courts.
- Tighter timescales for courts.
- Regulations and guidelines that stipulate co-working between agencies.
- Resources, training, the commitment to assessing the child's needs and to providing appropriate professional support from all agencies when permanency is agreed for the child.

Paper for the Children and Young Person's Committee's inquiry into adoption

Do you agree the functions that a National Adoption Service will be responsible for, as set out in paragraph bb? (Question 88)

In principle, BASW Cymru would agree with some of the proposed responsibilities. However, it is important to consider these again when they have become more task specific. The challenge is to ensure that this new service will make a difference to children and adopters in its continuing development and within the resources provided.

The roles and responsibilities of the National Adoption Service have to be considered from a perspective of finance and resources. To provide any of the services properly and timely will be costly. The issue for all of the local authorities is not one of understanding the needs of children and adopters; rather it is being well-resourced enough to provide for those needs. Alongside this is the issue of the considerable caseloads of those social workers identifying children in need of permanency.

The issue of adoption for the child and the delays that are incurred throughout the process are a matter of balance. The balance is between the rights of the child to family life, (article 9) and protection from harm (article 19) U.N. Convention on the Rights of the Child 1989.

It must also be considered that adoption is only one means of securing a permanent placement for a child. The other options are Residence Orders, Guardianship Orders and Long Term Foster Placements.

Much of the delay for children comes from the problems faced by the local authorities and the courts in balancing the above rights of the child. For example, many of the children requiring permanent placements come into the care system as a result of neglect or abuse. The authority is then faced primarily with considering rehabilitation of the child with their family. The court,

when requested by the authority to make a Care Order or Placement Order, is then faced very often with family and interested parties applying at a late stage for leave of the court to be made party to the proceedings. They then need to be assessed as permanent carer/s for the child.

This can be a very lengthy process with many assessments either from the local authority or from independent experts. Sometimes, this also involves further rehabilitation plans for the child.

A recent Ofsted report 'Right on Time: Exploring Delays in Adoption' (2012) verifies the above statement. When looking into the causes of delays in the adoption system, the report found that the most significant cause of delay is the length of time it takes for cases to be completed in court, rather than the failings of the social workers.

Measures would need to be in place to address the issue of court delays.

The majority of children requiring permanent homes tend to be over 2 years of age. They have many issues resulting from difficult starts in life. This is then compounded by possible changes of carers, and lengthy delays throughout the assessment process of family and the subsequent court process as described above. For their emotional well-being, most children when they are ready for a permanent home are in need of support, the right carers and in some cases specialist input.

The idea of one all-Wales Service for Adoption that can enable the consistency and standardisation of a service for children and adopters is one way forward. With 22 local authorities in Wales, this has remained a challenge with adopters and children receiving varying types of service, depending on resources, skills and training. The use of consortia throughout Wales has been a step towards standardisation so the development of an all-Wales Service will take this a step further.

The development of strong recruitment policies, and working with the media, will need to be at the heart of the new service. Yet again this has been a challenge for 22 authorities all doing their own recruitment and media work. The service will need to focus on and develop services for those harder to place children which include: those children who come in sibling groups, the older child and those children with issues and difficulties. This type of recruitment takes social workers time and skill to enable adopters to consider their options. The majority of people who apply to become adopters want adoption to meet their needs, which are primarily to have their own family. Therefore they are requiring children to be as young as possible, not the older child, sibling groups or children with issues, disabilities or problems.

With the delays in the adoption process, the older the child gets and the more changes of placement he/she potentially has. This brings more difficulties for the child and the matching with adopters.

Therefore adopters are not getting all that they require of their ideal child. Overcoming this, and encouraging adopters to look beyond the ideal, takes careful and skilled social work over a period of time to help people understand what adoption is today and to help them to explore their skills, abilities and emotional flexibility to take on a child that they had not first considered

The consideration of the commissioning of an Adoption Support Service could be seen as an essential component to the role of the Service. We know that for most of the children and adopters at some time during the adoption process, there is a need for more specialised services.

The development of the ASSA (Adoption Support Services Advisor) role, the commissioning of services and working between the major agencies i.e. Health, CAMHS, Social Services and Education, has been for most local authorities a real challenge and not as consistent as it should be in providing the right support services both pre and post adoption for the child and the adopters.

Support services need a major investment, which has been highlighted in CSSIW inspection reports.

With a standardisation of the support services, it potentially could help to reduce the disruption of placements

Do you suggest any additional functions that should be included? (Question 89)

One of the issues for the 22 local authorities, the 4 consortia and the Welsh Government has been the collation of vital information and statistics on Adoption. Without accurate information, it is difficult to address need.

The latest National Statistics on Children Looked After, produced by the Welsh Assembly Government were released on 15th September, 2011 and revealed that for 2011, 183 children had been 'placed for adoption' and 498 had been placed with parents or others. This particular statistic indicates that 498 children had gone into other permanent placements, possibly Guardianship, Residence Orders or under Placement with Parents Regulations. The statistics need to consider further information such as age;

sibling groups and difficulties in order to get an accurate picture of the needs of those looked after children who require permanent placements.

The National Adoption Service could be in a prime position to address this shortfall, and become a repository for information and data collection.

Consideration could be given for a Welsh Adoption Register, which is linked to the National Register. This would be helpful not only for the identity and culture of the Welsh children requiring adoption but also to widen the pool and to ensure resources are shared and needs identified within Wales.

Thought should be given for the setting up of a National Adoption Help line for children and adopters.

Attention could be given to standardisation of policies and procedures, IT systems and a standardisation of financial adoption allowances.

Consideration could be given to the National Adoption Service offering a service to Birth Parents. This birth parent counselling and support work, within local authorities, is not as consistent as it could be, due to resources. The needs of the birth parent are ongoing and it takes resources and skills to deliver an effective service that helps in the long term.

It may be a consideration for the Service to offer adoption from a concurrent planning perspective as well as traditional adoption. This means that adopters are recruited with a view that they take a child that is possibly coming into the care system on a planned admission i.e. newly born babies etc. that are being twin-tracked.

The adopters then offer the same care as a foster carer but if the rehabilitation planning does not work then the child remains with them for adoption.

Some English local authorities have teams for similar type of work. The positives for this are that for the child, if adoption is eventually the plan, then they have not had to have any change of carers. This gives the stability and emotional development to the children that they deserve. If the plan leads to rehabilitation then it is the adopters as adults that have to bear the emotional brunt as opposed to the child.

Are there any other barriers to the current arrangements that should be considered in the development of the Social Services (Wales) Bill? (Question 90)

The Bill will need to put duties on other agencies, i.e. Health, CAMHS and Education to enable the changes to function sufficiently to make a difference to children.

The issue of inspections by the CCSIW will need to be considered. It is unclear in the proposals as to the National Adoption Service's role and responsibility within this.

The issue of Adoption Panels will need to be considered. Our understanding of the regulations is that only Registered Adoption Agencies can establish an Adoption Panel. The reading of the consultation 6.1.11 states that the National Adoption Service will not operate as an "adoption agency" as referred to in the Adoption and Children Act 2002 and in the Adoption Agencies (Wales) Regulations 2005 made under section 9 of the Adoption and Children Act 2002. However, under point 3 of the consultation document it says that The National Adoption Agency would be responsible for "A Framework for adoption approval (including panels)".

Consideration will need to be given to how this Service will operate: whether it will be Welsh Government run or will it be out for tender.

Do you have any other comments that you wish to make about our proposals? (Question 91)

The role of the local authority adoption agency.

The role of the local authority adoption agency will change with the setting up of the National Adoption Service. There will be concern as to how and what its function will be. Careful consideration will need to be given to this and consultation taken as to how roles and responsibilities will fit such as:

- Panels for the 'ought to be placed decisions', the 'adoption approval' and the 'matching of child to adopters'
- Home-finding for the child.
- Matching of the child to adopters.
- Support post-placement for child and adopters.
- Birth parent counselling.

***BASW Cymru's response to the consultation questions contained in the Social Services (Wales) Bill 2012
Ref: The Establishment of a National Adoption Service***

- Reports for adoption order.
- The provision for the other permanency placements such as Guardianship Orders, Residence Orders and Long term fostering.
- Step-Parent Adoptions
- Support Services including financial.
- Access to birth records counselling.

Staffing

The issue of staffing for both the new service and the local authority adoption agencies is crucial.

The consultation document talks of and agrees 'that the service should be economical, viable, cost-effective and a common understanding and a strong professional base for adoption knowledge and best practice'.

However the National Adoption Service will need to consider that if it provides a concentration of specialised skilled persons, where these are to come from as it may mean local authorities will lose their trained staff. It could lead to the local authority adoption agency social worker possibly not being experienced or trained enough.

When establishing this service, consideration should be given to everyone working in adoption being provided with the same training and skill opportunities, thus providing an equitable work force.

The role of the social worker in the local authority adoption agency will be just as challenging and in need of a strong professional base of adoption knowledge and best practice as the National Adoption Service role will be.

Conclusions

A National Adoption Service has to consider what it can provide that is going to make a difference to children:

How it will be provided and by whom.

How it will be funded.

What changes to legislation are needed.

How it can effect change within the court systems.

BASW Cymru would be positive about a National Adoption Service if its advantages included:

- Providing a repository for data collection to identify need.
- Standardisation of policies and procedures.
- Welsh Adoption Register and Helpline.
- National training.
- Standardised recruitment and assessment of adopters.
- Standardisation of Post Adoption Support Services.
- The service would be especially welcome if it avoided duplication and waste of resources

Robin Moulster
Country Manager – BASW Cymru
May 2012

Agenda Item 6

Children and Young People Committee
School Standards and Organisations (Wales) Bill
SSO2 A - Additional Response from ESTYN



Christine Chapman AM
Chair
Children & Young People Committee
National Assembly for Wales
Cardiff Bay
Cardiff
CF99 1NA

13 June 2012

Dear Christine

Children & Young People Committee – request for additional evidence on the School Standards and Organisation (Wales) Bill

Thank you for your letter of 1 June and for the opportunity to respond to the questions in writing. Please find attached the response to the list of questions.

I am happy to add clarification if there is any further need to do so.

Yours sincerely

Ann Keane

Ann Keane

Her Majesty's Chief Inspector of
Education and Training in Wales



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INVESTORS
IN PEOPLE | Gold

Children & Young people Committee

School Standards and Organisation (Wales) Bill

Part 5 – Miscellaneous School Functions

Annual Parent's Meetings

Why do you believe the proposals set out in the Bill which remove the requirement on governors to hold an annual parents' meeting and replace it with a system that places the onus on parents to request will improve parental engagement? Is there a danger that placing the onus on parents to request a meeting will further exclude parents who are already disengaged?

What are your views on the suggestion (made by Granada Learning Group in its response to the Welsh Government's White Paper on the Bill) that annual parents' meetings are a means of holding governing bodies to account and, as such, they should not be dependent on parental time and motivation?

Estyn's response

There is little hard evidence to suggest that parental engagement will necessarily be improved by the proposed changes. However, the present system of mandatory annual meetings is not successful in many schools (where it is successful, the practice will still be able to be continued) and there is a strong argument for saying that giving parents the right to call meetings would increase 'ownership' of the process. Hence overall we would agree that giving parents the right to call for a meeting with the governing body, within the given limitations, is likely to improve parental engagement and reduce burden on schools.

As the current system is not working particularly well, it is worth trying the proposal an alternative, although the impact of the change should be monitored closely to ensure that there are no unintended consequences. If subsequent evaluation shows that parental engagement has worsened as a result, then the proposal would need to be reversed. An alternative would be to pilot the proposal in the first instance.

School based counselling

Do you believe that there is a need for school based counselling for all primary school pupils? If so, do you believe that they duty on local authorities to provide independent school based counselling should be extended to primary schools or, given the existing "financial constraints" do you think it is more important for counselling to be targeted at secondary age pupils?

Estyn's response

It is important to make counselling mandatory before transferring money to the Revenue Support Grant - otherwise there is a danger that the service might not be continued.

While we feel that the need for counselling within the secondary schools has been recognised, needs within the primary sector have yet to be addressed. We therefore welcome the flexibility in the Bill that gives the Minister the power to make subordinate legislation and regulations on counselling provision in primary schools.

The proposals will require local authorities to provide a 'reasonable' level of counselling with 'some level of service' in every maintained secondary school. We agree that transferring the funding to the Revenue Support Grant would provide greater flexibility for local authorities. This would enable the service to be directed towards schools at an appropriate level to meet learners' needs. The mandatory counselling service should be targeted at the learners in greatest need – whether in secondary or primary school.

Although the extent of the need is less than in secondary, some access to counselling in primary schools would be useful now – there are many situations in which younger learners could benefit from counselling. More and more primary schools are attempting to respond to pupils' needs by providing some form of counselling from within their own staff members, who usually are not trained counsellors.

Free school breakfasts

In your written evidence you say that you welcome the requirement for a local authority to provide free school breakfasts at a primary school it maintains if the governing body of the school has made a written request, and go on to say that breakfast clubs promote "a calm start to the day and can help to raise standards of Welsh language development in English-medium schools". What evidence do you have that breakfast clubs can help to raise standards of Welsh language development in English-medium schools?

Estyn's response

It is important to make ensure a legislative underpinning for free school breakfasts before transferring money to the Revenue Support Grant - otherwise there is a danger that it might not be continued.

The evidence we quoted in our original submission to the committee was based on an analysis of a sample of a hundred inspection reports. A small number of English-medium schools say that the breakfast club promotes a calm start to the day and helps raise standards of Welsh language development, but there is no suggestion that this is a major factor.

Costs

Do you have any estimates of the costs and financial savings that would arise from earlier intervention in schools causing concern and the proposals in relation to a more streamlined school organisation process?

Estyn's response

Estyn does not have access to the costs of current local authority interventions in schools. We have criticised local authorities in inspection reports for not evaluating the impact and value for money of their school improvement initiatives. Without such cost benefit analyses by local authorities Estyn cannot give any realistic estimates of projected costs and savings.