

## Secure and safe homes for our most vulnerable children – Adoption policy review group: report of phase two

### Scottish Executive proposals for action – a consultation paper

deadline for responses: Monday 31 October 2005

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#### Introduction

Over the last 20 years the nature of adoption has changed from very young children being given up voluntarily for adoption by the birth parents to children who are older and have been taken away from their birth parents, being in most need of long-term care away from their families. The current adoption system operating in Scotland (set out in the Children Act 1975 and Children (Scotland) Act 1995) was not designed to meet the needs of these children. Thus the Scottish Executive launched a review of the Scottish adoption system in 2001. It resulted in a two-phased, four-year review conducted by the Adoption Policy Review Group.

The review group undertook extensive consultation and review – the first phase examined adoption and fostering practice, while the second concentrated on the legal framework. In June 2005, the Adoption Policy Review Group published its final report which made 107 far-reaching recommendations for updating the adoption system and introducing an alternative legal option for achieving permanence for children in Scotland. In response to this report, the Executive accepted the vast majority of the group's recommendations and has since published its proposals for action and have put them out for consultation.

These proposals should be seen in the context of policy developments in related areas including the measures contained in the Family Law (Scotland) Bill and *Getting it right for every child*, the Scottish Executive's consultation on improving children's services including the Children's Hearings System.

#### Key issues

1. Do you support the introduction of Permanence Orders and what are the practical implications of this new order?
2. Are the proposals in relation to contact in the 'best interests' of the child?
3. How and when is the best time to engage a looked-after child in discussions about their long-term care?
4. Do the proposals in relation to support services go far enough in addressing the specific needs of children?
5. Do the proposals fully address the current strains on the system?

#### Overview of proposals

The central aims of the proposals are to improve the existing adoption system and to provide alternatives for children who cannot be brought up within their birth families, including those for whom adoption is not appropriate. The profiles of looked-after children requiring permanent care outside their birth families today have changed. They are older and many have established relationships with their birth families and friends. The proposals are based on 11 key principles (page eight, *Better choices for our children*) to ensure that a child's need for security, stability and permanence are central to creating a more open adoption system in Scotland.

## The key proposals are:

- **A new Permanence Order (PO) for children who are looked after by local authorities away from their families for long periods but for whom adoption is not suitable.**

*(see chapter 5 of consultation document and review group's report)*

The order would establish a new legal status intended to provide a 'sense of belonging to a family' for children who are looked after for long periods but for whom adoption is not suitable. The proposed PO is modelled on the flexible orders contained in section 11 of the Children (Scotland) Act 1995. The effect of the order would be to allow the court to confer and remove (or prevent the exercise of) some of the principle parental rights and responsibilities (PRRs), make provision for residence, contact, and make orders on any other specific issues (such as consent to medical treatment).

At a minimum, the PO would remove the right of parents to have their child reside with them or to regulate their child's residence. The order would allow **PRRs to be allocated or shared** between local authorities, parents, carers and wider family members thereby allowing relevant adult(s) to make everyday decisions for the child for example in relation to holidays or medical treatment. Whatever the provisions of the order regarding PRRs, a child on a PO would remain looked after by the local authority. Only local authorities would be able to apply for a PO.

It is intended that existing Parental Responsibilities Orders (transfers most but not all PRRs to local authorities) and Freeing Orders (transfers all PRRs to local authority) will be abolished and replaced with this new PO.

- **Full adoption will be retained in Scotland.** *(recommendations 3.12 & 3.16)*
- **Unmarried couples, including same-sex couples who are in 'enduring family relationships' will be allowed to adopt and foster jointly.** *(chapters 3 & 10)*

The intention is to allow unmarried, including same-sex couples, to adopt and foster children. Currently unmarried couples can adopt but not jointly. It is also proposed that unmarried step-parents should be able to adopt. About half of all adoptions in Scotland are by step-parents who are married to the birth parents of children.

- **Allowing contact in orders for both Permanence and Adoption.** *(chapter 4)*

The aim of this measure is to formalise the process for deciding and agreeing ongoing contact arrangements for a child with their birth family, following either a Permanence or Adoption Order. It is proposed that a degree of contact between the child and the birth family, for example siblings, should be considered in all cases of permanence. The key factors to consider being that the contact is for the benefit of the child. Thus the intention is to create a more 'open' adoption system. The issue of contact with the birth family when a child is adopted will also become more transparent.

- **The Children's Hearings System (CHS) should remain involved in long-term planning.** *(chapter 9)*

A number of measures have been proposed to ensure that this becomes more effective. These include:

- ▮ **a statutory duty on local authorities to inform the CHS of permanence planning at an 'early stage'** – by 'early stage' the review group suggests it should be after a looked-after child review has decided to proceed towards permanence. This would enable a hearing to be better informed about the social work department's plans for permanence and allow a panel to make better informed recommendations to the court (at the stage of being asked to give advice). The review found that the current involvement of a hearing in long-term planning before a decision has been made to apply for an order relies on good practice and is patchy.
- ▮ **nationally developed, quality-assured, joint training between key agencies** involved in long-term permanence planning (including enhanced training for children's panel members).
- ▮ **each hearing should, if possible, contain one member from a previous hearing** throughout the progress through the system of a permanence case.

- **A comprehensive legal framework for adoption support services that are properly resourced and have a commitment from central and local government as well as other providers.** (*chapter 6*)

This proposal aims to ensure that the duties imposed on local authorities are as clear and wide-ranging as necessary. Legislation will specify who is entitled to adoption support services, who has duties to provide support services and what adoption support services are. Suggested services are counselling, advice, information (including tracing by voluntary organisations) and financial support.

A code of practice will set out the provision for adoption support services. Each local authority should have an adoption support officer within the senior management team for social services who has lead responsibility for service provision. (*recommendation 6.16*)

- **Adopted people under 16 should have clear but limited rights to access appropriate information from their adoption agency records.** (*recommendation 12.9*)

Currently only adopted people aged 16 or over have an automatic right to information about their adoption. No other group will have access to records.

- **Curators and reporting officers should continue to be appointed in all applications for adoption and POs.** (*recommendation 8.19*)

- The review group recommended a **centralised national system to appoint and train curators, reporting officers and safeguarders from which individual case appointments are made locally. Remuneration should be paid centrally.** (*recommendation 8.31*)

The Executive has rejected this recommendation in principle and is consulting on this proposal and its advantages to allow it to come to final decision.

- **A nationally agreed scheme of adequate allowances should be introduced for foster carers.** (*recommendation 10.14*)

The Executive has agreed this in principle and is consulting on the central direction of appropriate levels of allowances.

## Key issues

- 1. Do you support the introduction of Permanence Orders and what are the practical implications of this new order?** Permanence orders will provide a new legal status and alternative for children who need long-term care but are not suitable for adoption. Do you agree that the introduction of this new order is necessary and that it will be a useful additional measure? Permanence orders will allow PRRs to be split three ways between the local authority, birth parents and foster carers. How will this triangle work in practice and how will decisions be made, for example if a foster carer wants to take a child on a family trip, who's permission do they have to get? Do you agree that the introduction of a permanence order is a useful alternative to current measures?
- 2. Are the proposals in relation to contact in the 'best interests' of the child?** The profiles of looked-after children requiring permanent care outside their birth families today are that they are older and have established relationships with their birth families and friends. It is proposed that these children should be allowed to maintain contact with their birth families, for example siblings. Do you think that this will interfere with the stability of their new placement? What if, for example, the birth parents are separated and contact is to be maintained by the two different birth families and the foster/adoptive family? Is it possible to ensure that contact arrangements work and are adhered to? It will be essential to ensure that the child's views on continued contact are sought. How can this be done effectively over time? The Executive is consulting on whether it should introduce guidance on considerations to be examined in determining the best interests (long-term, short-term or immediate?) of the child and what these might be. Do you think that this would be useful or is there a danger of being over prescriptive?



- 3. How and when is the best time to engage a looked-after child in discussions about their long term care?** It is proposed that a new requirement to ensure children's hearings are informed of a local authority's long-term plan for a child, at an earlier stage than is currently the case. As the participation of children is one of the central features of the children's hearings system in Scotland, this also implies that looked-after children should be involved earlier in discussions about their long-term care. It is also true that there is much uncertainty in permanency planning which can make it difficult to involve the child and birth parents in the process at an early stage. But, how and when is the best time to engage a looked-after child in discussions on where their childhood will be spent? There is a real lack of clarity at local authority level around where permanency planning starts. How can this be made more explicit? The review group also recommended a national system for training and appointing curators, reporting officers and safeguarders which the Executive has rejected. Are the current arrangements sufficient to ensure that the views of the child are meaningfully sought? Should there be equality of provision eg advocacy services for all children and young people?
- 4. Do the proposals in relation to support services go far enough in addressing the specific needs of children?** The proposals do not address how the specific needs of children will be addressed by support services. The emotional effects of adoption or care have a life-long impact. Services must ensure that they are adequately equipped to address the specific needs of adults and children. Are there other support services that should be contained in legislation? For example specialist therapeutic services or respite?
- 5. Do the proposals fully address the current strains on the system?** One of the key issues in relation to the long-term care of children and young people is the number of skilled staff available to work with children and families when difficulties arise, for example intensive support for parents to improve their parenting skills and assessments for the risks posed to children. The Executive is currently working on a number of initiatives to recruit and retain social care workers. What more needs to be done to ensure sufficient skilled staff to provide effective interventions for children? It is essential that the new adoption and fostering system is adequately resourced to enable it to achieve its full potential in achieving positive outcomes for children and young people. The consultation document fails to mention resources. How can issues of resources be addressed effectively?

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## Sources of further information

Secure and safe homes for our most vulnerable children, Scottish Executive proposals for action  
[www.scotland.gov.uk/Publications/2005/06/29170235](http://www.scotland.gov.uk/Publications/2005/06/29170235)

Adoption: better choices for our children, Adoption Policy Review Group Report of Phase II  
[www.scotland.gov.uk/Publications/2005/06/27140607](http://www.scotland.gov.uk/Publications/2005/06/27140607)

Choices for children in fostering and adoption, a discussion paper on legal issues for the Adoption Policy Review Group Report of Phase I (June 2002)  
[www.scotland.gov.uk/library5/education/ccfa-00.asp](http://www.scotland.gov.uk/library5/education/ccfa-00.asp)

Adoption Policy Review Group, Report Phase 1  
 Scottish Executive response to the Phase 1 APRG Report  
[www.scotland.gov.uk/consultations/social/aprg-00.asp](http://www.scotland.gov.uk/consultations/social/aprg-00.asp)

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