



BASW Submission to House of Lords Select Committee Inquiry on Adoption Legislation

BASW
16 Kent Street
Birmingham B5 6RD
Tel: 0121-622 8411
Fax: 0121-622 4860
Email: england@basw.co.uk

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INTRODUCTION

- I. BASW is the UK professional association for social work, led by and accountable to a growing population of approximately 14,500 social worker members. Our members work in frontline, management, research and academic positions in all social work settings across the UK. BASW members share a collective commitment to those values and principles that will secure the best possible outcomes for children and young people, adults, families and communities.
- II. BASW welcomes the opportunity to be able to respond to this very important and timely inquiry in the context of the government's current focus on adoption policy and practice. Our concern is that the timescale to submit evidence is incredibly short i.e. one calendar month. This has limited our reach in terms of being able to consult fully with BASW members who have an interest in this subject; whilst we have sought the views of our Children and Families Reference Group and a number of members who are specialists in adoption work, there will be a great number of members who we know would equally like to express their views on this but would need more time to respond.
- III. Finally, we would also like to point out that the four oral evidence sessions held so far have not included the perspective of social workers whether they work in local authorities, the voluntary sector or the independent sector. We hope that there will be opportunity for the oral evidence of social workers to be heard after the recess but nevertheless worry that it is all too often the case that social work practice becomes the central focus of debate without social workers themselves being afforded opportunities for direct engagement. To slightly coin a phrase, there is a danger that social workers are reduced to 'objects of concern' rather than being invited to the table as participant partners in the process of change.

RESPONSES TO QUESTIONS

Background

a. Do we have the right structure for adoption?

BASW members would argue that in the main, current legislation and guidance is sound however, as always, it is down to implementation - hence, in some parts of the country, there are examples of excellent practice whereas in others there are major shortcomings. In this respect, we would certainly support some of the proposals in the government's adoption action plan to bring about major improvements to the adoption system but it is vital that the issue of resources is not ignored in this debate; quality services to children require investment as well as good leadership, including a well-supported workforce empowered to carry out the work effectively. Unfortunately, the cuts to public services are having a profound effect on the capacity of children's social workers struggling to cope with the sheer volume of the work coming into their departments which inevitably compromises quality as evidenced in BASW's State of Social Work Survey. (May 2012) (www.basw.co.uk)

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

There are likely to be several factors that need to be interrogated; for example, we need to clarify whether numbers are falling because there are less children available for adoption or whether children being made subject to placement orders or who are relinquished are not being placed. We also need to take into account the many other routes to permanency for children such as the increased use of special guardianship – it is difficult to disaggregate the data i.e. how many of these children would previously have been adopted, remained in the care system or become the subjects of residence orders. It must be noted that adoption is not the perfect for solution for

many children who come into care. Paradoxically, another factor is the increase in the number of care proceedings. Although this raises the number of children in the care system and therefore should increase the number of children available for adoption, this assumes that there are the resources available to deal with both the court work required to obtain care orders and the work towards adoption. At a time of constraints on budgets this proves to be an even greater challenge to local authorities and this can inevitably lead to prioritising, leaving behind the more difficult cases.

Legislation

a. What impact did the 2002 Act have on the adoption process?

The 2002 Act laid a strong foundation for effective adoption practice in many areas. These include the roles of the LA's agency decision maker, the adoption panel, adoption support, intermediary services, access to adoption records, and tracing birth families. It also provides good legislative framework and guidance regarding inter-country adoption. We were particularly pleased that it required social workers undertaking adoption work to have suitable experience i.e. 3 years post qualifying and that it recognised that independent social workers are also an important constituent in undertaking adoption work.

One of our members states that prior to the 2002 Act, it was possible whilst in care proceedings to identify the adoptive placement and advise the court in final care plans of the actual time it would take to place the child, and general details of the proposed family as the adopters had been identified. Since the 2002 Act, this has changed and practitioners are told that a placement search cannot start until a Placement Order has been made and this search is outside the scrutiny of the court and can become delayed.

b. Have all aspects of the 2002 and 2006 Acts been implemented appropriately and successfully?

Regrettably, in terms of post adoption support whilst the intention was there the reality is patchy which is disappointing, for both the adopted child and the adopters who should have an entitlement to good and sustained support if needed. Our members report that services to meet post-adoption support have diminished over the last year with reductions to funding leading to out-sourced provisions reducing or ending.

c. Is further legislation required to improve any aspect of the adoption system?

We would just like to reiterate the importance of collating data on adoptive placement breakdowns; this is something that local authorities need to record and share with the DfE so that we understand the situation both locally and nationally. It is also information that should be interrogated by Ofsted inspectors so that we have a much better understanding of frequency and cause of breakdowns/disruptions in order to improve practice and reduce the likelihood.

d. Can you as a respondent identify a problem and tell us if, and if so where, the legislation (including regulations), needs to change?

Where there is a limited likelihood of an adoptive placement being found and the search is time limited to, for example, 6 months, it might be helpful for the case to be adjourned for the search to happen and if no-one is found in the agreed timescale the care plan could revert to one of LTF (long term fostering). At present, where a placement order is made and an adoptive family is not found, when the care plan reverts to LTF the matter goes back to the court for revocation of the placement order which requires the child to experience further litigation of 12 months or longer after the order has been made.

BASW members would also concur with the Ofsted Report: Right on Time: Exploring Delays in Adoption April 2012 which could find no evidence of Adoption Panels contributing to avoidable delay which runs counter to the view purported in the Family Justice Review. We would argue that they provide an important role of independent scrutiny and quality assurance of decision making

and therefore, all of their functions should be retained and not remitted to the local authority decision maker. We fear that by reducing their role this will increase delay as we do not think it is possible for the decision maker to effectively undertake the work of the adoption panel.

One of our members is a procedures writer and has spotted the following problems with the Adoption Agencies (Panel and Consequential Amendments) Regulations 2012:-

The amendments apply when an adoption agency is making a decision as to whether the child ought to be placed for adoption. In specified situations the adoption agency will be prohibited from referring the case to the adoption panel before making the decision. In all other situations the effect of the Adoption Agencies Regulations 2005 remains unchanged – the adoption agency is required to refer the matter to the adoption panel.

The statutory guidance on adoption has been amended to explain the effect of the change – in Chapter 2 (Deciding if a Child should be Placed for Adoption) at Paragraphs 64 and 67 – 69. There is a table attached to paragraph 64 setting out the difference between those cases in which the adoption agency is required to refer the matter to panel and the cases in which it is prohibited from doing so. In brief – if the adoption agency is required to apply to court for a placement order the matter must not be referred to panel, in all other cases the matter must be considered by panel before a decision is made.

In practical terms, this means that if the child is relinquished for adoption the case must be considered by the adoption panel and in all other cases it must not. A child cannot be relinquished whilst care proceedings are in progress so while there are current care proceedings the matter must not be referred to the adoption panel. The table attached to the guidance sets this out clearly. Unfortunately it adds an extra category (Category 3 in the table) - **Care Order made and the birth parent has indicated they will consent to their child being placed for adoption, but the agency considers there is a possibility that the birth parent will change their mind and not give their consent.** This is where the problem arises. The second column of the table says -

although this table says to refer the case to the adoption panel, the case could be referred direct to the decision-maker to decide whether the child should be placed for adoption if there is strong evidence that the birth parents will change their mind and not give their formal consent. In deciding which course of action to take, the agency must take into account the effect on the child of any unnecessary delay.

There are two problems here. The first is a discrepancy between the two columns: the trigger in the first column is "**there is a possibility that the birth parent will change their mind**", but the condition in the second column is "**there is strong evidence that the birth parents will change their mind**". There is a risk that practitioners will try to bypass the adoption panel based on no more than a possibility of a change of mind. Unless the misunderstanding is picked up quickly the consequence of this will be exactly the delay it was intended to avoid.

The second problem is more serious. This guidance is based on the likelihood that a parent may change their mind. Although the trigger is strong evidence that a change of mind is likely, this is still no more than a possibility: at the time the parents are indicating that they will consent to adoption. The Regulations are clear that in this situation the case must be presented to panel. What would happen if the parents do not change their mind or if they do change their mind but at a later stage?

- To avoid delay the matter is put to the decision maker directly.
- The parents are currently indicating that they consent to adoption. Can the decision maker legally decide that adoption should be the plan for the child? S/he may refuse to make a decision without a panel recommendation.
- If the decision maker agrees that the parents are likely to withdraw their agreement at a later stage s/he may make the decision. But since the parents have not yet withdrawn their consent, a referral must be made to Cafcass to witness the consent.

- Cafcass will ask for information about the actions taken so far. It will be clear that the adoption agency has made, or plans to make, a decision that the child is suitable to be adopted, but that decision is not (or will not be) valid under the Adoption Agencies Regulations. In this situation will Cafcass witness the consent, or will they require the adoption agency to arrange a panel date first?
- A further possible problem arises if the parents continue to maintain that they consent to the adoption. The case must be presented to the adoption panel and the decision maker – but can the decision maker now make an unbiased decision, taking into consideration the recommendation of the panel? S/he had already made a decision on the case before panel considered it. Will this require the adoption agency to find another decision maker?
- These problems are likely to introduce significantly more delay than if a panel date is set at an early stage.

Our member also spotted a further anomaly with the amended adoption guidance on a lesser scale. The guidance has been amended on the website and there is also a full version that can be downloaded and printed off but the front cover has not been updated, so it still says "**First Revision - Feb 2011**". Given that there were amendments in April 2011 as well as the June 2012 changes, this is confusing and needs correcting.

Time taken in placing children

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

Placing children in adoptive placements tends to vary between local authorities. Some local authorities appear to rely on local consortia whilst others will also consider national searches. Given the limited placement availability for BAME children, children with disabilities, older children and sibling groups, BASW members acknowledge that in some cases, there can be an over optimistic 'search' which can go on for years with children living in limbo waiting for an adoptive placement which may never materialise. This is extremely damaging for children and they will often say that they have not been adopted because **'no-one wants them'**. We would argue that there is a need for a more rigorous approach and realistic timescales for local authority searches for adoptive placements to prevent children being left in temporary situations where they are not allowed to settle as they are continually told that they will be moving on. In this respect, we support the view that there is a need for local authorities to have robust procedures to prevent this type of scenario from occurring.

Good examples from practice include those local authorities that meet on a monthly basis to consider the position of all children waiting for adoptive families taking into account what is being done and what else should be done to try to identify a family. In this way, children do not become over-looked and drift is minimised. Local authorities also tend to fare better where they have utilised all existing resources and are not just reliant on in- house and local consortium resources.

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

BASW members would certainly concur with the findings of a recent Ofsted report 'Right on Time: Exploring delays in adoption' (2012) 'which identified that **'the key factor causing delay in tracked cases was the length of time for care proceedings to be concluded before an adoption plan could be confirmed.'** However, what we also think is very significant in the findings of this report is that **'a substantial number of children had been known to children's social care services for a considerable length time before entering care; delay in entering care proceedings jeopardised good outcomes for children'**. Many of our members have reported on numerous occasions their sense of frustration about being deterred from instigating legal proceedings particularly in relation to children suffering from neglect; Community Care typified the problem in January 2012 reporting that according to an Action for Children report, 51% of social workers said they felt powerless to intervene in cases of suspected neglect because of high thresholds and inadequate resources.

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

As resources become more limited members report that this sometimes causes friction between agencies for example, the local authority finalising assessments may be delayed due to new circumstances, putting pressure on both the adoption agency and the already overstretched court leading to delay and tension.

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

Whilst social workers are absolutely committed to the principle of making timely decisions, we also have concerns that speeding up the adoption process could resurrect the dreaded 'target driven' culture which ironically the Munro review was keen to depart from given that the emphasis became less about child centred practice and more about mechanistic adherence to timescales.

Care needs to be taken to ensure that the expectations are realistic ones. For example, in terms of completing care proceedings within 26 weeks, the statutory guidance on adoption states that a child must have a permanence plan by the second (four month) review. This leaves very little time to formally approve adoption as the plan and prepare an application for a placement plan. However, the guidance does not recognise this anywhere – for example, by noting that in the case of a "subsequent sibling" of a child who has been adopted or for whom there is a plan for adoption, it may be possible to identify adoption as the likely permanence plan much earlier and start preparation, or by noting that where early attempts to return the child to the family fail, it may not be possible to apply to court for a placement order within the care proceedings and a separate application may be needed.

Our advice to the Government is not to be overly prescriptive on meeting timescales; where care proceedings can be completed appropriately within 26 weeks that is fine but it will not always be achievable or in the best interests of children. Currently, according to Coram, the average time taken for concurrent planning is 39 weeks plus 6 months to final adoption order. Similarly, the FDAC (Family Drugs and Alcohol Court) model also averages 39 weeks for care proceedings. Given that both the work of Coram and FDAC are quite rightly held in high regard by the sector and the government as in many respects, they represent the 'gold standard' in exemplary practice then surely they will not be penalised for exceeding the target but rather commended for achieving the best outcome for a child in terms of care proceedings. Moreover, there are sometimes very good reasons for care proceedings to exceed desired timescales which need to be taken into account.

Sadly, we need to reiterate that according to our members, the greatest challenge to meeting the new targets are the shrinking resources which we fear could end up being very costly to vulnerable children leading to corners being inevitably cut resulting in poor practice and decision-making.

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

We understand from the Coram interim report 'Concurrent Planning Study' published this month that it is still a relatively small number of local authorities that have adopted this model and so there is clearly scope for it to be used more widely. However, the study is also clear that it is only suitable for a relatively small cohort of young children and so whilst it has many merits it also has its limitations; not all adopters would be able to cope with the uncertainty of concurrent planning and Coram do not recommend it for children over 24 months. Our concern is that the government is not necessarily presenting it in these terms but rather giving the impression that it is the panacea which is not helpful. One of our members argues that it could potentially be very difficult for adopters to care for babies who are born addicted to drugs; experienced foster carers are better skilled to care for these children during the first few months of their lives. Potential adopters may struggle to cope with the withdrawal symptoms these babies present. We must not lose sight therefore in investing in all aspects of the system including the need to secure high quality foster care as well as recruiting suitable adopters. Concurrent planning also requires additional resources for training and support to both adopters and social workers and so it needs to be budgeted for in order to develop expertise within authorities.

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

It is important to consider that not all local authorities are identical; some may have much higher populations of children in need as a result of greater social deprivation and argue that they are not as well off as some of their counterparts in respect of their allocation of funding from central government. The NSPCC report 'Smart Cuts? Public Spending on Children's Social Care' (June 2012) found that the cuts are having the greatest impact on English urban areas and those authorities that have a high proportion of looked after children which is very worrying.

To go back to a previous point, the variations in time do not always mean that local authorities are doing poor work; for example, two low scoring authorities in the recent publication of adoption 'league tables' have both responded by saying that they have zero or few adoption breakdowns and so they are excelling in the area of placement stability. Moreover, one of them cites that they have a good record of placing 'harder to place children'.

Nevertheless, we would argue that effective leadership of children's services is crucial and that includes having a clear vision for all forms of permanence planning including adoption.

The number of potential adopters

a. Are there enough potential adopters coming forward? Are there shortages in particular ethnic groups?

Evidently not; our understanding is that children on adoption registers outnumber prospective adopters by 5 to 1 and it is not purely about numbers; according to Ofsted: *'nearly all local authorities cited a shortage of suitable adopters who had the required capacity to meet the needs of children as a key reason for delays in adoption'*. In this respect, we need to acknowledge that there is something of a mismatch between the children placed for adoption and those coming forward to adopt. As already stressed, children are likely to have experienced significant trauma in their lives which means that they have complex needs which can feel overwhelming to potential adopters. Perhaps we should consider what 'adoption' means contextually today and make sure that it is pitched appropriately from a PR perspective; candidates often come into the process with a very different set of expectations and so that is why adoption preparation needs to be extensive and thorough as it is life-changing experience for both the adopted child and the adopters with many benefits but it needs a great deal of emotional investment and support to mitigate the risk of adoption placements breaking down if we want to get it right.

How do we ensure the best "fit" for a child, and is trans-racial adoption relevant to this issue?

The government has already said a lot on this issue, accusing local authorities of holding out for the perfect match yet this is not borne out in practice confirmed by the findings of the Ofsted report which could find no evidence of this. BASW does not believe that there is a need to alter current legislation and policy in this area and would argue that what we already have in place is sufficient.

We are disturbed that recent government comments about this give rise to unhelpful stereotypes of social workers as being overly rigid as a result of 'political correctness'. This is not the case but certainly plays into the hands of some of our less well informed colleagues in the media. We do not live in a 'race neutral society' and it is right that adoption agencies consider a child's ethnic origin, culture, language and religion as significant factors when considering the most appropriate placement for a child. This does not mean that BAME children should only ever be placed with adopters with the same ethnicity etc. but it does mean that they need to be placed with adopters who are sensitive to all their needs and possess the skills, knowledge and understanding to help them to build positive identities. The Adoption Statutory Guidance for the 2002 Act stipulates that *"a prospective adopter can be matched with a child with whom they do not share the*

same ethnicity, provided they can meet the child's other identified needs. The core issue is what qualities, experiences and attributes the prospective adopter can draw on and their level of understanding of the discrimination and racism the child may be confronted with when growing up. This applies equally whether a child is placed with a black or minority ethnic family, a white family, or a family which includes members of different ethnic origins". Nonetheless, this does not negate our responsibility to actively recruit adopters from Black, Asian and Minority Ethnic backgrounds given that there is a shortage of adopters from these groups. Demographic profiles of communities are not static and need to be reflected in our range of carers.

Why do some potential adopters drop out during the adoption process?

This is another area where some sections of the media tend to regularly promote an image of social workers as being bigoted towards potential adopters as headlines scream out at us that named individuals were rejected on the basis of their age, weight or ethnicity. What less responsible journalists forget to say is that actually not everyone who puts themselves forward is suitable to adopt children and it is vitally important that we have effective screening processes to ensure that we root out those where adoption may not actually be right for them. After all, ultimately, we are here to meet the needs of children and these are often children with a complex range of issues which can be very challenging and demanding for their carers. It is fair to say, that those who put themselves forward to adopt may have a very different set of expectations. Some may come to realise that adoption is not for them during the assessment process and we respect their right to withdraw and change their mind; some may encounter changes in their lives whilst undergoing assessment such as a relationship breakdown. If candidates complain that they were in any way treated unfairly, this needs to be explored and seen in the context of there being a necessarily rigorous assessment process that is child centred and challenging for the right reasons.

Nevertheless, we also accept that there may be those who have grown disillusioned during the process in terms of the time it has taken or an initial poor response and the process of progressing applications to adopt could be streamlined and expedited in some areas; for example, second time adopters and foster carers applying to adopt should have their re-assessments done quicker and more effectively.

Have the changes to eligibility introduced by the 2002 Act impacted the number of potential adopters?

The changes to the Act did increase the variety of people who are now able to apply to adopt children including unmarried partners, single people and same sex couples. This has increased the opportunities as aimed and without this it is likely that there would have been less adoptions to date.

b. What will be the likely effect of the measures proposed in the Department for Education's 'Action Plan for Adoption'?

From previous experience, we would have to acknowledge that if there is a political drive to improve the adoption process then this will inevitably mean that there is a greater focus on adoption on the part of local authorities, voluntary adoption agencies and courts (in respect of the Family Justice Review) which is to be welcomed. There are many elements of the Action Plan for Adoption which we welcome and we support the objective of sharing and growing good practice across the piece. However, we would add a note of caution in terms of introducing a league table approach obsessed in measuring adherence to rigid timescales. There is a danger that this will only serve as a blunt instrument that is short on yielding qualitative information about overall performance and heavy on blame and conversely, can become a perverse incentive that does not have the desired effect of improving practice. This is very much at odds with the Munro vision of ushering in a very different culture in child protection work. Also, in a climate of scarce resources there is a risk of other forms of permanency planning becoming the poor relation as the focus becomes adoption leaving the majority of looked after children out in the cold.

The government is quiet on the adoption support element in the action plan, particularly in providing a statutory adoption allowance and other services. Yet we know that adoption is a lifelong process, linking/matching/placing for adoption is only the beginning. A consistent and responsive adoption support service is the key to the stability of an adoptive placement.

Members welcome the pre-qualification training and preparation suggested in the Action Plan.

Does the number of agencies inhibit the number of potential adopters recruited?

BASW values the mixed economy of both statutory provision and third sector voluntary adoption agencies; it is vitally important that we develop our expertise in this area in order to build upon and improve adoption practice in the future. However, our members tell us that currently the problem is not one of over-supply and as a result of the spending cuts it is worrying that for example, some voluntary adoption agencies have had to close as a result of funding drying up and conversely, members working in local authorities have seen reductions in staffing levels at a time when there is a high demand for their services which does not bode well for the future. A member working for a voluntary sector provider told us that she had responsibility for over 50 adopted children as a full-time worker but due to a reduced service contract she had the same children to support but with only half her original hours.

c. Does the recent increase in knowledge about early child development affect the balance between children's rights and parental rights?

This is a pertinent question and it resonates with the 'damned if you do' syndrome for social workers; another stereotype pedalled again by some of our friends in the media is the notion that social workers are 'over -zealous child snatchers'. This has not always been helped by comments that have been made notably by those in the legal profession about the state's power to remove a child from its birth family i.e. "*After the death penalty the most draconian act that the state can do is remove a family's child*" (Nigel Priestly, Lawyer, Channel 4 News 13 March 2012)

A few years ago, BASW alongside others found itself battling with the judiciary over cases where children were subject to ICOs (Interim Care Orders) but judges were reluctant for social workers to remove these children as a result of some case law precedents; (Re L (A Child) [2007] EWHC 3404 (Fam) , Ryder J. required that the '***court must consider whether there is an imminent risk of really serious harm***') Thankfully, this decision was subsequently re-interpreted by the Court of Appeal which held that Ryder J had not intended to change the law and raise the standard for removal set in the earlier cases but it had had an impact on practice nevertheless, particularly in cases of neglect.

Typically, one BASW member describes her experience as a member of an adoption panel: '***many of the children coming to panel have been harmed pre-birth by excessive parental use of drugs and alcohol. They are then subjected to abuse, neglect and domestic violence so by the time they are brought into care it is not unusual for the children to have significant learning disability which may be a lifelong condition. Some of the children have delay of 3-4 years (at ages 6-10) attributable to early trauma, not organic cause. Most of the children will have attachment and behavioural difficulties.***'

Whilst there is a need for all concerned to strike an appropriate balance 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 is important that society backs social workers in undertaking the responsibility on its behalf to effectively safeguard vulnerable children. However, the social work profession can find itself being hamstrung by the fashion of the day. As one member puts it "***we are now paying the price for an earlier political stance that said it was draconian for the state to interfere in family life. This, despite the fact that for many children our intervention saves their lives. There are children who have been exposed to repeat assessments and too many failed attempts at rehabilitation - the rule of optimism gone mad!***"

Court proceedings

a. Do court proceedings take undue time in the adoption process?

There is not a simple yes or no answer; each case should be judged on its own merits; not all delay is bad especially if the end result is in the best interests of the child and produces positive outcomes. It has been said time and time again, that these are often complex cases with a number of factors that need to be taken into consideration. However, all parts of the system are under enormous pressure so inevitably with demand outstripping supply there will be delays as a result of limited resources which is not good and if we do not do something to shore up the capacity then it does not matter how we rearrange the deckchairs on the ship.

Would the recommendations of the Family Justice Review substantially alter the position?

Whilst there are many laudable objectives in the Family Justice Review such as trying to unify quite a disparate and complex system at times and make it a much more user friendly service, the fundamental question has to be is there enough capacity in the system to meet current and future demand? In a climate where we have seen the closure of some courts, cuts to public services and more to come against an increased need for services comprising complex cases, it is very difficult to contemplate the end result of the Family Justice Review being better outcomes for children. The language used at the beginning of the review was one of the need to make efficiencies and for change to be 'cost neutral'; setting a timeframe of 26 weeks for completion of care proceedings does not seem reasonable in these circumstances and could leave professionals with the feeling that they have been set up to fail. ***"My main concern is that workers will be singled out for criticism when the overload is caused by funding cuts and system failures rather than individual incompetence."*** (BASW member)

Moreover, there are a number of recommendations that lack any credible evidence base with which we take issue. Firstly, limiting the role of adoption panels to reduce delay; Ofsted certainly did not find any evidence to support this hypothesis. One of our members argues: ***"Why fix something that is not broken? Major delay in finalising adoption plans for children is not caused by the adoption panel – there are provisions in legislation and practice to have emergency/extraordinary panels to meet the needs of children."***

Secondly, we were dismayed that the panel bought into the myth that the assessments produced by ISWs acting as independent witnesses were a duplication of the work of the local authority social worker and Cafcass and added more significant delay to proceedings. Happily, research has now been published on 19 April 2012 by Dr Julia Brophy: ***The Contribution of Experts in Care Proceedings: Evaluation of the work of independent social work assessments*** which clearly demonstrates that none of these assumptions are correct and that the contribution of ISWs brings added value to complex proceedings. Key findings include:

- 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.

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. Without their input, it is more likely that court timetables will be extended because of a lack of evidence, e.g. work from inexperienced staff that has to be redone: this makes wrong decisions for vulnerable children and miscarriages of justice more likely. There is significant spare capacity in this sector that is not being deployed because of structural barriers, not least the Legal Services decision last year to cap ISW fees at a rate way below other comparable professionals. Since this fee cap came into force delays for children

awaiting ISW assessments are increasing as advocates appeal decisions made by the LSC. We are aware of a case involving a baby girl who has been waiting 6 months for decisions to be made about funding the ISW assessment – this despite the court having made a direction that such assessment was necessary.

We therefore support the launch of an inquiry into the family justice reforms proposed by the government in the Children and Families Bill by the All Party Parliamentary Group (APPG) on Child Protection where some of the above concerns can be raised.

b. How effective are provisions for the representation by guardians of children in court proceedings?

Sadly, in our view there has been an erosion in the role carried out by guardians as a result of an overly bureaucratic system characterised by top-down management which has led to many experienced guardians leaving the service as they do not feel that they can practice ethically in what has become a very oppressive climate. In some situations we know that children are not even being seen by their guardians as a result of rationing resources reducing their role to a paperwork exercise. Such changes have demoralised the workforce.

“Difficulties for guardians are often the restrictions placed upon their practices by Cafcass e.g. limited visits, not being able to attend contested hearings in full etc. It is our contention that guardians must be allowed to undertake their responsibilities unfettered. If the guardian is being entrusted to make recommendations regarding the future life of a child, they should be trusted to know the extent of the enquiries they need to make in order to provide an informed decision.” (BASW member) This situation is somewhat ironic when the Munro review clearly spelt out the dangers of an overly bureaucratic, target driven child protection system where the use of professional judgement was scant. In the past, children’s social workers saw the guardian role as good career progression once they had gained sufficient experience in child protection work. Typically, social workers who advanced to guardians had a minimum of 5 years experience. Sadly, this is no longer the case as the bar has been significantly lowered.

How effective have placement orders been in facilitating the placement and adoption of children compared with “freeing orders”?

One of the problems with freeing orders was that they were a “one way street” – it was difficult to discharge the order if the child still needed some legal protection from the lifestyle of the parents. This has been corrected not only in the definition of placement orders but also for the remaining freeing orders; but, there remains the problem that in terms of competing priorities, applications for discharge of orders generally come lower than applications for new orders.

c. How common is it for care proceedings and placement order proceedings to be heard together or consecutively? What are the advantages and disadvantages of this approach?

Members report that in their experience it is common for care and placement orders to be heard together and they view this positively: this reduces delay and cost as evidence in relation to both orders can be heard together. It can also be less traumatic for families as they are only required to attend one hearing for a decision to be made.

d. How will changes to legal aid impact, if at all, on adoption proceedings?

Post-adoption support

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

Sadly, BASW members report that there continues to be minimal post adoption support and this tends to be a factor with foster carers who want to keep the child long term but are reluctant to see adoption as a positive option as all supports, including financial, will become limited or non-

existent should they pursue an adoption order.

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

Emphatically yes. Time and time again, there is universal agreement that children entering the care system have a range of complex need as a consequence of their birth families having a propensity towards substance misuse, mental health issues, domestic violence. The overwhelming majority of children who are adopted will require some degree of therapeutic re-parenting and integrated service planning and delivery. Most of the children will have attachment and behavioural difficulties. They therefore, need extensive support to ensure they reach their potential and of course their adopters need to be supported to cope with the demands that are made of them. Sally Donovan (adopter) shares her experience in Community Care (May 2012) of her council providing good support and, several times a year, hosting a free, four-day therapeutic parenting course.

However, the system still has echoes of previous times when the children being placed were often little different from other children within their extended adoptive family. Consequently, the support to which adopters (and special guardians), quite reasonably, feel entitled feels grudgingly given – and at times arbitrarily withheld. It would be useful to have a clear statement of the support to which they are entitled and the circumstances that trigger this entitlement.

Inter-country adoption

- a. Have the inter-country adoption safeguards introduced by the 2002 and 2006 Acts proved successful?**
- b. Would you recommend any change to the legislation to make inter-country adoption simpler?**
- c. Are there any special challenges in adopting children from particular countries or regions?**

Access to Information

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

Other permanent placements

- a. What has been the effect of the introduction, in the 2002 Act, of 'special guardianship'?**

It does seem that the use of special guardianship in practice is significantly different from the policy intention. However this may have been partly because the policy intention was misjudged. It is important that we have reliable national information about the use of this order and we therefore look forward to hearing about the findings of the research the Social Policy Research Unit of the University of York is doing on the use and outcomes of special guardianship. The impression is that it is substantially being used as a route out of the care system into the care of extended family – but there are repeated concerns that these are at times arrangements made "on the cheap" with little or no support offered, that the status of the arrangement is forced because the carers would not meet the requirements of the National Minimum Standards for Fostering and that inappropriate pressure is applied to persuade the carer to make the application. In short there are questions about whether local authorities may sometimes work on the assumption that it is intrinsically better for the child to live with relatives outside the care system than to be in any sort of placement in the care system.

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

We certainly believe that special guardianship can provide an effective alternative to adoption, particularly for the age range stated. It encourages family members and others to become legal

guardians and therefore provide a safe and supportive home to children, often in an environment in which they are already settled and comfortable.

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

We need to ensure that we have an even handed and proportionate system for all 65,500 children who are looked after; adoption is not the only means of securing permanence for children unable to be cared for by their birth parents. Residence orders, long-term fostering and special guardianship orders are also reasonable and good ways of safeguarding children's best interests. For some children residential provision is the most appropriate option to meet their needs. Adoption after all, is the best plan for permanence for only a small proportion of children in care.

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?

It is essential that a balance is struck in our services between preventative work and heavy end child protection work which are after all part of the same continuum and it should not be a case of either or. In children's services it certainly has become top heavy in terms of everything being weighted towards intervening when situations have significantly broken down and one only has to look at the level at which thresholds are set. In our opinion, this has a lot to do with the increase in child protection plans and care applications that is causing 'meltdown' in the system. This of course runs counter to four independent government commissioned reviews (Munro, Allen, Tickell, Field) which convincingly make the case for early intervention yet Sure Start centres are closing, youth services are virtually non-existent and the list goes on.

"I'd just like to say that things are going from bad to worse on the frontline of child protection and children in care services. I know that I can only speak with regard to our own department but we are seeing compulsory redundancies, an unhealthy turnover of staff and 'restructuring' which means instability and a lack of continuity for children in care. Clearly, this is a poor model for social work practice and for the children we serve. Major loss issues - no time for people to say goodbye and many of the workforce disappearing. Not quite what Eileen Munro had in mind. Unfortunately, the local authority option (which is where the workers are badly needed) is becoming increasingly unattractive to experienced social workers. I am afraid too that the chaos after the cull (and when they realise that we don't have enough social workers to do the work) will result in short term expensive solutions - more short term contract agency workers which, with due respect to them, is not the way to offer stability for children in care and those subject to protection plans." (BASW member)

Monitoring

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

It is vital that we learn from the mistakes of the past so that meeting adoption targets in itself does not become the overriding imperative at any cost - effectively serving as a perverse incentive. The Munro Review should really be a cautionary tale to us about the perils of a target driven, top-down blame culture that is not child centred. An experienced guardian warns that it can result in some children being pushed down the adoption path when this is not right for them. In her experience some local authorities are promoting adoption as the preferred option for any child under the age of 12 years.

"In the last couple of years I have dealt with a number of children aged between 7 and 10 years where the care plan was adoption, and the children had an understanding of what this would mean and were strongly opposed to being adopted. Current policies do not seem to allow for proper consideration of the views of older children in relation to adoption. If an older child is not committed to the idea of being adopted and having

a new family, the likelihood of being able to get them to accept a new family will be limited and the likelihood of placement breakdown will become unacceptably high. Permanent fostering needs to be considered as a viable option for older children who are not able or willing - or suitable - to accept an adoptive placement. Alternatively, consideration could be given to seeking adults who would wish to care for children under SGO arrangements which would be more acceptable to the children concerned."

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?

The adoption panels have a role in this, and the current performance indicators used by local authorities and Ofsted inspections are good in monitoring the number of children with adoption plans, those who are waiting and the length of time they have been waiting, and when adoption orders are granted. What is missing (and we believe this is now being addressed by the DfE) is the number of children whose adoption plans have been changed, and reasons for these, and also disruptions in adoptive placements. The new data collected will be useful.

Key points

- Social workers to be given opportunity to provide oral evidence to the inquiry and not be marginal in the process. BASW is in the midst of establishing a project group of its members to look at adoption and produce a report from a more practice based perspective.
- Adoption is important but only constitutes a small part of permanency planning as it is not suitable for the vast majority of children in care, so we need to make sure that there is equity in the system otherwise this can have a detrimental impact on the welfare of thousands of children if the focus is skewed to this one area.
- We support efforts to improve adoption practice but they need to be congruent with other reforms in children's services. The introduction of 'league tables', adoption scorecards and rigid timescales is in complete contradiction to the findings of the Munro review and the direction of travel of moving away from a target driven, blame culture.
- With the best will in the world, quality services to children cannot be achieved without proper resourcing. This is patently not the case currently, which is already having an adverse impact on vulnerable children and families.
- Post adoption support should be made a clear entitlement to adoptive families rather than the piecemeal situation we have now.
- Successive governments need to exercise greater objectivity when commenting on adoption in the public domain and not misconstrue it, as this can damage the reputation of the social work profession and ultimately does not help to promote greater awareness of the 'real issues'.
- Government recommendations at the very least should be supported by good evidence bases and research rather than be formed on the basis of hearsay and assumption.
- Early intervention has a critical part to play in enhancing the lives of vulnerable children and families and positively alter their trajectories. It requires our political leaders to have the courage of their convictions and make these investments in the lives of our children and young people to build their social capital and benefit the individual and communities.
- Children's voices should not be lost in the quest to meet targets. A 'bottom up' approach would not be out of place in the 'big society'.

**Nushra Mansuri
Professional Officer (England)**