



PRIME MINISTER'S REVIEW

# ADOPTION

ISSUED FOR CONSULTATION

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## FOREWORD BY THE PRIME MINISTER



It is hard to overstate the importance of a stable and loving family life for children. That is why I want more children to benefit from adoption.

We know that adoption works for children. Over the years, many thousands of children in the care of Local Authorities have benefited from the generosity and commitment of adoptive families, prepared to offer them the security and well-being that comes from being accepted as members of new families.

But we also know that many children wait in care for far too long.

Some of the reasons are well known. Too often in the past adoption has been seen as a last resort. Too many local authorities have performed poorly in helping children out of care and into adoption. Too many prospective parents have been confused, or put off, by the process of applying to adopt, and the time the whole procedure takes.

That is why, in February this year, I announced that I would personally lead a thorough review of adoption policy, to ensure we were making the best use of adoption as an option to meet the needs of children looked after by Local Authorities. I commissioned the Performance and Innovation Unit (PIU) in the Cabinet Office to conduct a study to assess the evidence, explore the options for action and to make recommendations on options for Government policy. The results of the study are set out in this report.

The report concludes that we should indeed be making much more use of adoption as an option for meeting the needs of children looked after by Local Authorities. It recommends that the Government should take a new approach to adoption, putting the child's needs at the centre of the process, and making clear the high standards and quality service which children and families can expect.

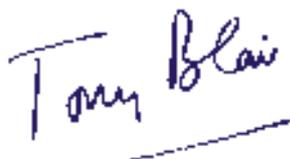
The PIU report represents recommendations to the Government, rather than agreed Government policy. Some of the recommendations have significant implications for spending, and for the organisation of the courts and local authorities. We want a proper debate before final decisions are made. That is why we are seeking views on the report's conclusions from all interested parties. Before the end of the year we will publish a White Paper setting out our conclusions.



However, I am determined to make early progress. It is clear from the PIU report that there are some things we can get on with quickly. Over the next few months we will therefore:

- develop and implement proposals for a National Adoption Register, to co-ordinate those waiting to adopt with children needing new families, and so cut out unnecessary delay;
- draw up new National Standards, which Local Authorities will need to follow, setting out timescales for making decisions about children and clear criteria for assessing adopters, so that children do not drift in care and those wanting to adopt know what to expect and can be confident they will be treated fairly;
- set up an Adoption and Permanency Taskforce, to spread best practice, tackle poor performance and to help all Local Authorities reach the standards of the best;
- conduct a rapid scrutiny of the backlog of children waiting to be placed with adoptive families and approved adopters waiting for children, to see if any suitable matches can be made.

The Government is committed to modernising adoption. We need to ensure that children's needs come first. And we need to better meet the aspirations of the many prospective parents who want to adopt. This report represents the first step in a long overdue task of reform.



Tony Blair

## EXECUTIVE SUMMARY

### Key Messages

1. This report is the result of the Prime Minister's request for a study as part of a major review of adoption of "looked after children" (children in the care of the Local Authority). Its primary purpose was to address whether there should be more use of adoption as an option for looked after children and whether the process could be improved in the interests of children.

2. Overall, the report concludes that the government *should* promote an increase in adoption for looked after children, and that there is scope to increase the number of adoptions each year. The new Quality Protects initiative, directed specifically at children's services, is already improving the operation of adoption services. But a more fundamental and wide-ranging strategy is needed to deliver the service which children have a right to expect.

3. This new approach must *put the needs and rights of the child at the centre of the process*. It should reflect the value we place on the commitment and skills of people who are suitable and willing to care for these children, the Government's commitment to support them and a respect for the rights of birth families.

4. The shifts in adoption trends need to be widely recognised and acknowledged; adoption of children from care in the 21st century is less about providing homes for relinquished babies and more concerned with providing secure, permanent relationships for some of society's most vulnerable children.

5. The report recommends to the Government a significant number of options which the PIU believe should be considered in order to take forward the new approach and to achieve an increase in the number of successful adoptions. These are recommendations to the Government, not a statement of Government policy. The Government would welcome views on them, to be taken into account in developing policy over the next few months. These recommendations centre on:

- attracting, recruiting and supporting many more adopters and their families;
- achieving improvements to the quality and consistency of care planning and Local Authority performance on adoption;
- making the court system work better in supporting care planning for looked after children;
- changing the law to make it clear and more consistent, and to support action in the other three areas.

### Attracting, recruiting and supporting more adopters

6. The lack of adopters is a key constraint in achieving an increase in the number of adoptions and it is clear that more people with the right skills need to be encouraged and supported. The report recommends:

- developing a new partnership with adopters to promote adoption and increase confidence in the entire process. This should incorporate new National



Standards on recruitment and assessment criteria, a duty to make available the required post-adoption support services and timescales for the whole adoption process;

- stepping up recruitment through support for National Adoption week, promoting more recruitment activity in Local Authorities, widening the eligible pool, getting Local Authorities to work together and targeting recruitment for particular groups of adopters;
- establishing an Adoption and Permanency Taskforce to undertake several roles including the development of best practice and supporting a scrutiny of the backlog of waiting children and families;
- ensuring adopters are properly valued and treated as national resource by setting up a National Register for recruitment and matching.

## Achieving improvements in care planning and performance

7. The report recommends that adoption remains a function for Local Authorities but that significant improvements are sought in planning, decision-making, organisation and practice:

- setting out a clear national policy for permanence to be implemented by Local Authorities;
- putting in place measures to ensure that Local Authorities consider all the options for achieving a permanent home for children as soon as possible;
- setting timescales and performance indicators to improve performance and avoid damaging drift and delay for children;
- commissioning the Adoption and Permanency Taskforce to tackle poor performance where it is identified in Local Authorities;

- backing this up with use of Best Value powers to tackle persistent poor performance.

## Making the court system work better

8. The process of dealing with children coming into care and subsequently identifying adoption as an option is a complex interaction between Local Authorities and courts. Improvements in the functioning of courts and the legal processes need to be achieved. The report recommends:

- reviewing and subsequently reforming care proceedings to tackle duplication and delay;
- improving the role of Guardians ad litem;
- considering the introduction of judicial case management of adoption proceedings in order to improve management grip on the process;
- achieving a greater level of consistency in the legal processes by clarifying best practice, improved training, and exploring judicial specialisation.

## Changing the law

9. The current legal framework for adoption is inconsistent and out of date. Legislation is needed to clarify the basis for planning for adoption and permanence, and to underpin several of the other changes recommended in the report. The report's recommendations for legislation include:

- aligning the Adoption Act with the Children Act 1989, to provide a consistent basis for planning;
- providing a full range of legal options for permanent placements including for those children who do not wish to be adopted;

- facilitating adoption by introducing new Placement Orders to replace Freeing.

## Impact

10. The PIU consider that consistent and rigorous implementation of this package of measures, together with the improvements already underway through the Quality Protects initiative, should deliver significant and sustainable increases in the number of children adopted from care and reductions in inappropriate time spent before placement for adoption. The Government should consider setting appropriate targets and ensure that robust performance management arrangements, including use of Best Value powers, are in place to ensure achievement of these targets.

## Coverage

11. Recommendations concerning primary legislation affect both England and Wales but for those concerning policy and secondary legislation the National Assembly for Wales will want to take a view. Consultation for this study took account of views received from the Wales Office, officials from the National Assembly and other Welsh bodies concerned with adoption, but not the National Assembly itself, which will wish to consider the conclusions of this report. The National Assembly for Wales will wish to decide on its policy proposals and consult separately over them in Wales.

## Comments

12. The Government would welcome views on this report. Comments should be sent to:

Room 122  
Department of Health  
Wellington House  
133-155 Waterloo Road  
London  
SE1 8UG

to be received by 6th October.

# 1. INTRODUCTION

## Summary

This study was requested by the Prime Minister as part of a major review of adoption. The remit was to provide an initial assessment of the main problem areas, identify options and make recommendations for Government policy on the use of adoption for children in the care of Local Authorities. The study team from the PIU drew on research evidence and contributions from a wide range of organisations involved in the field. The report contains recommendations to the Government and is issued for consultation as part of the process of developing policy.

## Background

1.1 The Prime Minister announced in February that he would lead a major review of adoption of looked after children (children in Local Authority care). As the first phase of this work, the Performance and Innovation Unit (PIU) (see Annex 1) was asked to carry out a two-month study. A working group to support the Prime Minister's review, and act as a steering group for the PIU study, is being chaired by John Hutton, Minister of State at the Department of Health. Members of the PIU team and the Steering Group are listed in Annex 2.

1.2 The remit of the PIU study was to:

- summarise existing evidence on outcomes and highlight implications for policy objectives;
- provide an initial assessment of the main problem areas and identify possible areas for further work to address them;
- analyse the pros and cons of more radical approaches;

- identify any early recommendations which could lead to rapid action to improve the current position;
- set out the options for further work, including the work which would need to be done if the Government wished to have a full consultation paper later in the year.

## How the study was carried out

1.3 The study was carried out in 8 weeks. It drew on existing practice and available research as well as extensive information gained from visits and discussions with a large number of Local Authorities, voluntary organisations, interested groups and individuals. The contributors are listed in Annex 3. A seminar on adoption held at No.10 Downing Street in April also helped to inform the conclusions.



## Structure of the report

1.4 The report presents the evidence gathered from individuals, organisations and research. It analyses the key problem areas, identifies where change is needed and sets out options for how this might be achieved:

*Chapter 2* sets out the context for the study. It discusses the current trends in adoptions, characteristics of children coming into care, policy changes and research evidence;

*Chapter 3* identifies and analyses the key problems and barriers to more adoptions;

*Chapter 4* sets out the main elements of a new approach;

Chapters 5 to 8 set out the PIU's recommendations in four areas:

*Chapter 5* – Recruiting and Supporting Adopters;

*Chapter 6* – Improving Local Authority Performance;

*Chapter 7* – Making the Court System Work Better;

*Chapter 8* – Changing the Law.

## 2. TRENDS IN ADOPTION AND LOOKED AFTER CHILDREN

### Summary

The numbers of children adopted from care are now around 2,000 per year, or 4% of the looked after children population. The majority of the 55,300 children in care are looked after by foster carers, less than 9% are in Local Authority community homes.<sup>1</sup>

Children adopted from care tend to have been admitted to care at a younger age and are younger at the time of the adoption than the general care population.

Looking at the trends in adoption over time against a background of shifts in policy, it is clear that the role played by adoption has changed radically over the last three decades. This highlights the need for a new approach from Government.

2.1 This chapter sets out the context for the study. It discusses:

- adoption trends;
- the profile of looked after children;
- the profile of looked after children who are adopted;
- policy developments over the last 3 decades;
- research evidence on outcomes.

2.3 The main focus of this study is on adoption of “looked after children” (see Box 2.1 for the definition of a “looked after child”). In contrast to the overall number of adoptions, adoptions of children from care have remained relatively stable over the last 30 years, at around 2,000 per year. They now amount to around half of all adoptions; the remaining 2,000 or so relate to step-parent and inter-country adoptions.

### Adoption trends

2.2 The total number of adoptions in England has fallen from around 20,000 per year in 1970 to 4,100 in 1999<sup>2</sup>. This principally reflects the sharp reduction in the number of babies of unmarried mothers given up for adoption, driven by the decrease in stigma associated with illegitimacy and single motherhood, and the increased access to contraception and abortion.

### *Box 2.1: “Looked After Children”*

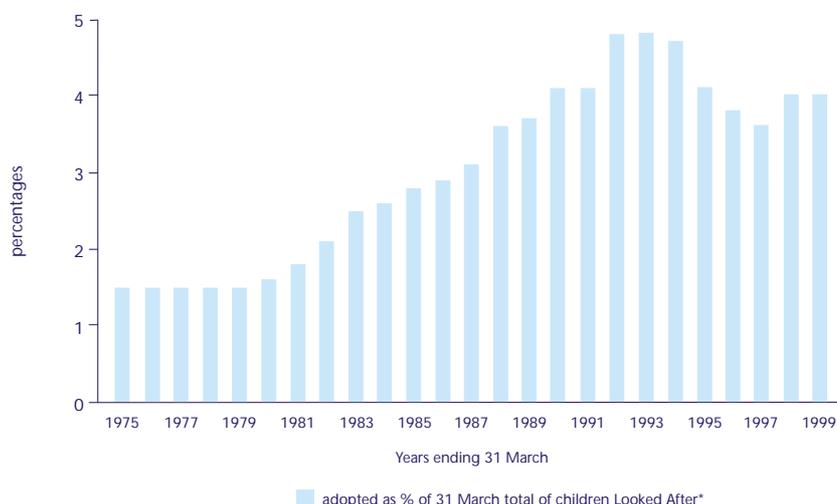
Under the Children Act 1989, a child is ‘looked after’ by a local authority if he or she is placed in their care by a court (under a care order) or provided with accommodation by the authority’s Social Services Department for more than 24 hours.

<sup>1</sup> throughout the report all figures from DH statistical publication *Children Looked After by Local Authorities*, DH, 1999, unless otherwise referenced.

<sup>2</sup> figures from ONS



Figure 2.1: Children adopted from care during the year (England), % of the total looked after



2.4 In 1998/9 2,200 children were adopted from a total of 55,300 children looked after by Local Authorities, a rate of 4%. This proportion is now stable, after a dip in the mid-1990s. See Figure 2.1.

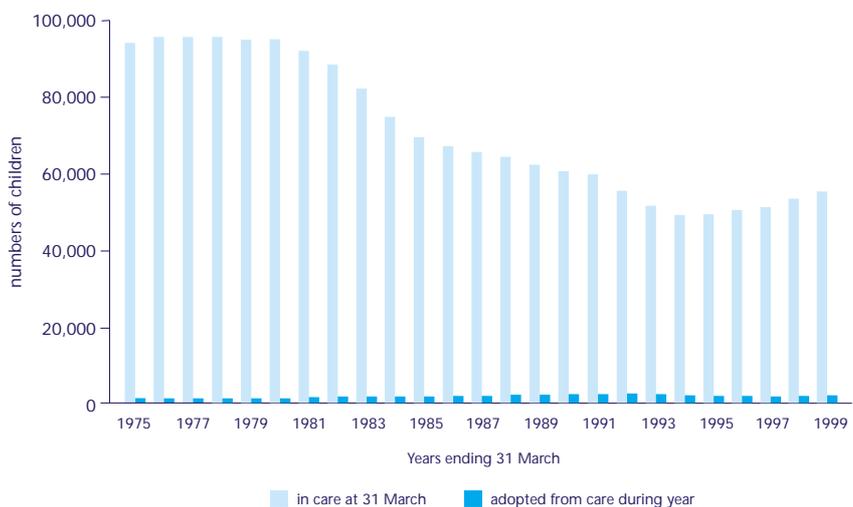
2.5 In the same year 2,900 children were placed with carers with a view to adoption at a future date, 5.2% of the total of looked after children. In an international context, England already achieves relatively high rates of adoptions for looked after children (see Annex 4).

### Profile of looked after children

2.6 Figure 2.2 illustrates recent trends in the numbers of looked after children in English Local Authorities. The looked after children population is increasing again. Following the fall from almost 100,000 in the early 1980s to 49,100 in 1994, the population rose by 13% between 1994 and 1999, to reach 55,300.

2.7 The numbers entering and leaving the looked after children system have been falling steadily since the mid-1990s. The increase in the total reflects the fact that

Figure 2.2: Numbers of children looked after and adopted 1975–1999





children are spending longer being looked after. Following a dip in the mid-1990s, the average length of the latest period of care has increased by 9% from 17<sup>1</sup>/<sub>4</sub> months in 1996 to 19 months in 1999, returning to around the same level as the early 1990s.

2.8 The majority (65%) of looked after children are in foster placements, where most children stay for a short period before returning home. Less than 9% (4,800) are in Local Authority community homes (1999 figures).

2.9 Other key facts relating to the characteristics of looked after children in England are set out in detail in Annex 5. Generally:

- they are becoming younger and more challenging;
- the population is split between those experiencing a few weeks of care and those staying for much longer. For example, 40% of those leaving care in 1998/99 had been looked after for 8 weeks or less;
- the children experience a lower chance of successfully returning home the longer they remain in care. A child who has been in care for 6 months or more has a 60% chance of remaining in care for four years or more (and most likely until 16). By 15–18 months their chance of remaining in care has stabilised at around c.80%.

## Profile of looked after children currently adopted

2.10 Children currently adopted from care form a distinct subset of looked after children. Comparing those adopted in 1998/9 with the overall looked after population, they:

- Are more likely to be female and white  
51% were male and 49% female. This compares to 55% and 45% in the looked after population;  
90% were white, 7% of mixed parentage, 2% were black and 1% were asian. Non-whites are estimated to make up c.17% of the looked after children population;<sup>3</sup>
- Are likely to be part of sibling groups, but placed apart  
20% of children adopted from care in 1998/9 had no birth siblings, 24% had one and more than half had two or more. However, 64% of placements for adoption were single child placements, 30% were placements of sibling groups of two and 7% were of 3 or more<sup>4</sup>. Siblings are frequently placed apart;
- Are becoming younger and have an average age lower than that of the looked after population  
The average age has fallen from 5 years 9 months in 1995 to 4 years 4 months in 1999. Relatively few children over 10 are adopted from care. See Fig 2.3 for the changes in age profile;
- Enter care at a younger age than the general looked after population  
Around 10% of all those leaving care in 1996 were under 1 year old on entry, compared to over 50% of those leaving care who were adopted. In contrast, 61% of those leaving care were 7 or older on entry, compared to 4% of those adopted;<sup>5</sup>
- Are more challenging than the general looked after children population  
1996 figures suggest that 44% of children adopted from care had started to be looked after because of abuse, neglect or risk, compared to 17% of the overall

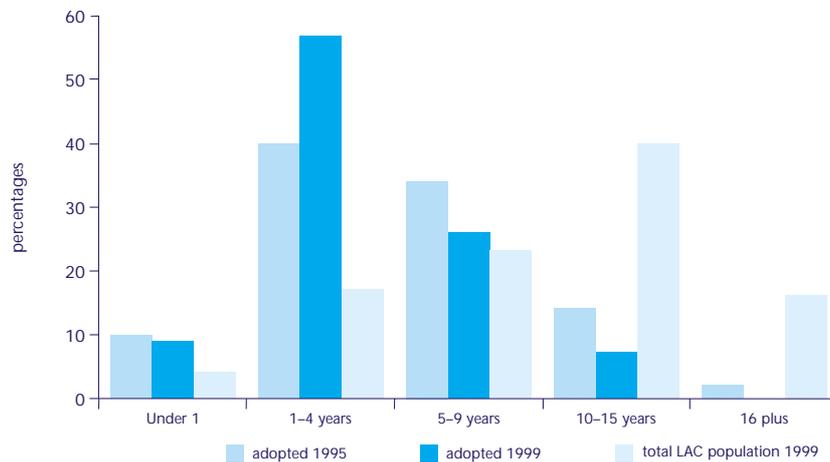
3 Figures from 1998/9 BAAF survey

4 *ibid*

5 BAAF (1996) *Children Adopted From Care*



**Figure 2.3: Age profile of looked after children adopted, compared to total looked after population**



number of children ceasing to be looked after that year<sup>6</sup>. Some 45% of children adopted were first admitted under Emergency Protection or Care Orders, compared to 17% for the general looked after population;

- Spend years in care before adoption ... but this time is falling

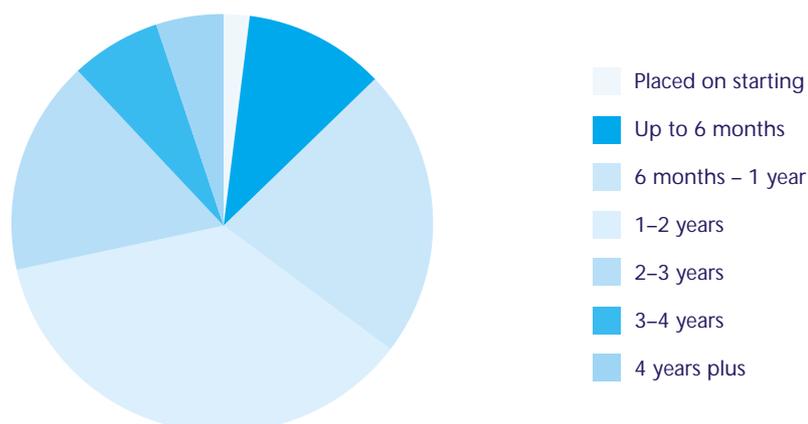
Length of time in care before adoption was on average 2 years and 10 months in 1999. This has fallen from 3 years 5 months in 1995. Children on Care Orders waited an average of 3 years 4 months in 1999, those Freed for adoption waited 2 years 7 months, while those accommodated

voluntarily waited an average of 1 year 11 months;

- Wait to be placed for adoption ... but this time is falling

The length of time before placement for adoption is in many ways more important than the time spent before and after adoption itself, since after this point the child should be in a stable family. This has been falling, from 1 year 11 months in 1994 to 1 year 8 months in year ending March 1999. Figure 2.4 provides a breakdown for 1999. Figure 2.5 sets out the age range at placement with families with a view to adoption;

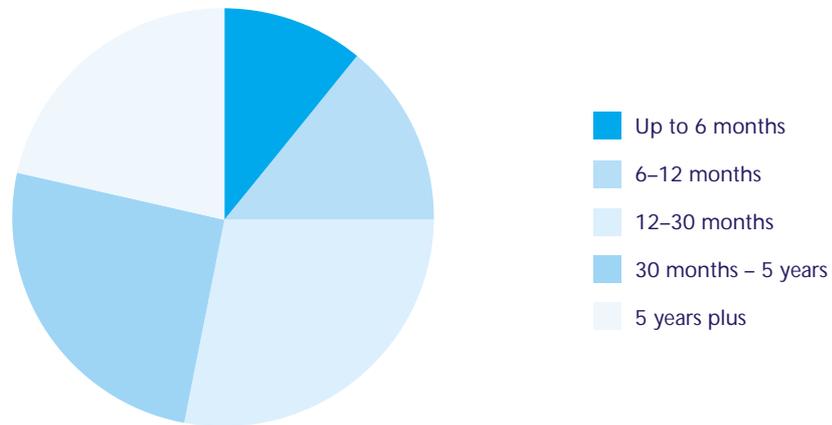
**Fig 2.4: Time looked after before being placed for adoption, 1999**



6 ibid, both figures exclude those becoming looked after only to provide a period of relief for their parents



Figure 2.5: Age at placement for adoption, 1998/9



- Are unlikely to have returned home before adoption....

Since starting to be looked after, 79% of children adopted in 1998/9 had not returned home to their birth parents before their adoptive placement;<sup>7</sup>

- ... and experience more moves while in care

Of those adopted in 1998/9, 38% had only one placement of any kind before their adoptive placement, 18% had two and 15% had three, while 14% had 6 or more.<sup>8</sup> This compares to 66%, 18%, 8% and 4% for all those ceasing to be looked after that year.

### Key messages from profiles

2.11 The profiles raise key points central to this study:

- adoption has changed radically over the last three decades;
- adoption from care is not about providing couples with trouble-free babies. It is about finding families for children of a range of ages, with challenging backgrounds and complex needs;
- given the changes to the population of looked after children, and especially the indications of a rising level of need,

promoting more adoption will involve finding more families for increasingly vulnerable children;

- this suggests that the Government should consider a new approach to ensure that policy is framed in a way that reflects the needs of current and future looked after children. This has clear implications for the recruitment and support of adopters;
- there is evidence to suggest that the process of deciding on adoption is lengthy and children would benefit from more timely decision making (Box 2.2);

### Box 2.2: Key statistics on delay

- those adopted in 1998/9 were aged on average 1 year and 2 months on coming into care, but were 2<sup>1</sup>/<sub>4</sub> years old on average when the decision was made that adoption was in their best interest;
- 65% of children adopted wait over 1 year between coming into care and being placed with their prospective adoptive family;
- 36% of looked after children adopted were in care more than 3 years.

<sup>7</sup> BAAF 1998/9 survey op. cit.

<sup>8</sup> ibid



- the improved outcomes associated with placement for adoption at a younger age re-enforce this (see paragraph 2.16). There is a balance to be struck here between appropriate attempts at rehabilitation with birth families and avoiding drift and delay which damages the child.

## Policy background

2.12 In setting the context for the study, it is helpful to review recent policy and practice trends concerning adoption. This brief survey is impressionistic, and is intended to provide a feel for how the climate around adoption has changed.

### The 1970s

A 'permanency movement' emerged in the USA, largely in response to the apparent failure of the 1960's emphasis on prevention and rehabilitation with birth families. Permanency aimed to provide children with stable homes, either with their birth families or with substitute families. This approach included the successful use of adoption for a much wider range of children, older with more complex needs, than had previously been thought possible.

This new emphasis, especially on adoption, was taken on board enthusiastically by Voluntary Adoption Agencies in the UK and pioneering Local Authorities. There were a number of reasons for this: new research evidence demonstrated the success of adoption for older children; a realisation that many children were drifting in residential or unstable foster care; and the well publicised murder of Maria Colwell after being returned to her natural mother from foster care.

Around the same time the Houghton Committee was undertaking a review of adoption and the combined thinking resulted in the Children Act 1975 and the Adoption Act 1976. As well as restricting the power to make adoptions to Local Authorities and approved adoption agencies, the legislation introduced Freeing Orders, made it easier to dispense with birth parent's consent in adoption cases and more straightforward for foster carers to adopt. In later years these measures came to be viewed by some as unhelpfully tipping the balance away from 'conciliation' with birth parents towards 'confrontation'.

### The 1980s

The role played by residential child care reduced, and that of foster care increased greatly. The 'investigate, rescue and remove' approach which developed in the 1970s predominated through the 1980s, but began to be challenged by a number of high profile cases. In addition, research findings identified that children in the care system were still experiencing considerable problems and some were being abused.

The Children Act 1989 was major legislation that responded to the growing disillusionment with the previous approach. The Act intended to create a better balance between protecting children and promoting their long-term welfare. It was felt that in most cases the family would provide the best place for children and that parents should exercise responsibility in deciding what was best for them, supported by Local Authorities.

A simultaneous emphasis on partnership with parents, support to families and strong child protection was promoted. However, the Act came to be seen by professionals as emphasising the primary importance of working with birth families. The focus on 'permanence' was reduced, and the emphasis placed on adoption decreased. The proportion of adoptions from care peaked in the years immediately following the Children Act, before dipping in the mid-1990s. In addition, given the level of public concern, the prime focus of Local Authority attention remained on child protection.

## The 1990s

Adoption law was reviewed in the early 1990s resulting in the publication of a draft Bill in 1996. The Bill proposed to align adoption legislation with the Children Act, making the child's interest the paramount consideration in the adoption decision, and set out a number of improvements to the process. It was generally well received, but despite all party support, was never introduced into Parliament. The failure to legislate after raising expectations signalled to the field the relative lack of significance the Government accorded to adoption, and left the legal position unclear.

In parallel, from the mid-1990s onwards, drawing on research evidence, the Government encouraged Local Authorities to develop a more balanced range of services for children in need and looked after, alongside their existing child protection services. The Quality Protects programme (involving an investment of £375m over 3 years) is intended to help Local Authorities develop this balanced range of services, and secure greater stability and better outcomes for Looked After children. One aim is to return adoption to the mainstream of children's services, maximising its use while minimising delay.

Until the advent of Quality Protects and the issuing of Local Authority Circular LAC(1998)20 "Achieving the Right balance" on adoption practice, there was very little emphasis from central Government on adoption services. In addition, professional social work training has become ever more generic, meaning that social workers entering children and families work have limited specialist skills and are likely to have received little training on fostering and adoption issues.

### 2.13 To summarise:

- given the policy context set out, it is not surprising that Local Authorities have understood the priority to be child protection and working with birth families, and that adoption has not received much attention until recently;
- the role of adoption as an option for looked after children has been subject to wide swings in opinion and emphasis over the past three decades;
- while trends in research and professional development are significant, Government can set the agenda and exert a powerful influence on practice, through signals transmitted through legislation, policy initiatives and guidance.

## Evidence on outcomes

2.14 The outcomes for children who grow up in the care system are poor (Box 2.3). The research evidence on the success of adoption

relative to alternative placements is scarce (Box 2.4), but there is no suggestion that adoption outcomes are worse than the alternatives. There is a well established evidence base demonstrating that adopted children do as well, if not better, than those in the general population<sup>9</sup>.

### *Box 2.3: Outcomes associated with growing up in the care system*

Compared to the general population, children who grow up while looked after by Local Authorities:

- are four times more likely to be unemployed;
- are 60 times more likely to be homeless;
- constitute a quarter of the adult prison population<sup>10</sup>.

<sup>9</sup> summarised in Tresiliotis et al (1997) *Adoption: Theory, policy and practice*, London, pp19–28. See also Parker (Ed) (1999) *Adoption Now: messages from research*, London, DH, pp10–14

<sup>10</sup> James (1999) *Strategic Planning in Children's Services*, London, DH



### Box 2.4: Outcomes on adoption against alternative placements

Research is scarce, but what there is suggests:

- a very high degree of focused effort is required for preventative services to avoid the need for alternative placements where families are abusing or neglectful;
- return to birth parents or relatives can have positive outcomes, but the transition can also be very difficult. Success depends on the conditions at the home and the quality of care;
- there is no clear evidence that returning home in itself necessarily or automatically delivers better outcomes than placement for fostering or adoption<sup>11</sup>.

### Factors contributing to successful adoptions

2.15 There is more evidence on the factors associated with successful outcomes for adoption. Most of these studies concentrate on the risk of adoptive placements “disrupting” ie. breaking down, with the placement ending. The break-down rate should not be seen in isolation and is not the only measure of success; qualitative research on the perceptions of all parties involved has also been carried out, as have more detailed assessments of wider “wellbeing” and development.

2.16 However, in the context of this study, disruption rates offer us the widest range of comparative information. The key findings are:

- a 20% disruption rate is frequently quoted as a rough average<sup>12</sup>;
- age at placement has a crucial influence on the chances of disruption. Researchers agree this is the most powerful determinant. Table 2.1 summarises the results of several studies:

Table 2.1: Disruption and age at placement<sup>13</sup>

Age at placement	% placements disrupting
Infants	c.5%
c. 5 yrs	c.10%
c. 7–8 yrs	c.20%
c. 11–12 yrs	c.40–50%
Later teens	c.30–40%

- other risk factors have been identified. Table 2.2 sets out the results of one large study which was able to separate out the influence of individual factors.

Table 2.2: Risk factors and disruption<sup>14</sup>

Risk factor	Associated disruption rate
Child “institutionalised”	36%
History of behavioural/emotional difficulties	30%
History of abuse/neglect	25%
Placed away from siblings	29%

- physical or learning disability has been found to make no significant difference to the chance of disruption<sup>15</sup>, once age and other factors are taken into account;

11 Rushton (1999) *Adoption as a placement choice: argument and evidence*, London, The Maudsley. See also Gough (1993) *Child Abuse Outcomes*, London, HMSO

12 Fratter et al (1991) *Permanent family placement: a decade of experience*, London, BAAF – sample of over 1000 placements allowing statistical analysis of impact of individual variables

13 Sellick & Thoburn (1996) *What works in child and family placement*, London, BAAF, p67; Rushton op.cit. p12; Fratter et al, op.cit.

14 Fratter et al, op.cit.

15 ibid



- on trans-racial placements, latest evidence does not clearly demonstrate a difference in terms of rates of disruption, but allows no firm conclusions to be drawn on the effect on self confidence or sense of identity, especially later in life. There is limited evidence that trans-racial placements are more successful where the local environment is racially mixed. The authors of a recent comprehensive review concluded that there was no reason to change the presumption that a same race placement was the first choice, but should not be pursued at the expense of the child drifting in care<sup>16</sup>;
- placement success varies by agency. One study of over 1,000 placements by Voluntary Adoption Agencies found that disruption rates varied between 10% and 50% for agencies placing children with similar characteristics<sup>17</sup>;
- there is no clear evidence of a difference in the rates of disruption between adoption and long term fostering, once the differing age of the children is taken into account<sup>18</sup>. However, there are indications from qualitative studies that children generally prefer the sense of security that adoption gives them over long term foster placements, even if these are intended as 'permanent'<sup>19</sup>.

2.17 One additional research finding of note is the presence of a group of children, mainly older, in need of permanent placement, but who do not wish to make the absolute legal break with their birth family associated with adoption<sup>20</sup>.

2.18 While the information was not available during the study to conduct a cost benefit analysis of adoption, given the downstream costs of growing up in care, combined with costs of looked after children, it is highly likely that adoption delivers an overall benefit to society, even when accompanied by the resources required to support the successful adoption of challenging children.

### *Key messages from research*

- adoption is an effective option for looked after children;
- early placement is crucial to avoiding disruption;
- the most difficult children to place, in terms of finding adopters, are older children, boys, sibling groups and black and ethnic minority children;<sup>21</sup>
- older children and those with special needs *can* successfully be adopted with the right preparation and support;
- adoption is not the answer for all looked after children unlikely to return home. Some do not wish to be adopted, some require such intensive support that adoption is never going to be an option.

16 Rushton and Minnis (1997) "Trans-racial family placements" *J. Child Psychol. Psychiat.* Vol.38,2; Charles et al (1992) "The placement of black children with permanent new families" *Adoption & Fostering* Vol.16,3; Barth (1988) "Disruption in older children adopted" *Public Welfare*, Winter; Sellick and Thoburn, op.cit. p69, Rushton, op. cit. pp13-14

17 Fratter et al, op.cit.

18 Rushton, op.cit. p11; Sellick and Thoburn op.cit. p67;

19 Tresiliotis op.cit. p111; Fletcher (1993) *Not just a name: the views of young people in foster and residential care* National Consumer Council

20 Bullard and Mallos (1991) *Custodianship – caring for other people's children*, London, HMSO

21 BAAF (2000) *Linking Children with Adoptive Parents*

## 3. PROBLEMS AND BARRIERS IN THE CURRENT SYSTEM

### Summary

The available data indicates considerable potential scope for Local Authorities to make greater use of adoption as an option for looked after children. Current performance is very variable.

This chapter sets out the problems and barriers to adoption identified during the study at each of the five stages of the adoption process:

- entering Local Authority care;
- identifying adoption as an option for looked after children;
- delivering the plan for adoption;
- recruiting, assessing and matching adopters;
- support after adoption.

These are summarised at the end of this chapter.

### Introduction

#### *The scope for increasing adoption*

3.1 The proportion of looked after children adopted in 1998/9 varied by Local Authority between 1% and 14%, with an average of 4%. Some of this variation will be due to the relatively small numbers of children involved, but the range also indicates a divergence of performance.

3.2 Of the 55,300 children in care in 1999:

- 39,100 children had been looked after for over 1 year. Of these 15,190 were under 10 years old and 5,890 were under 5;

- 28,700 children had been looked after for over 2 years. Of these 9,490 were under 10 years old and 2,790 were under 5.

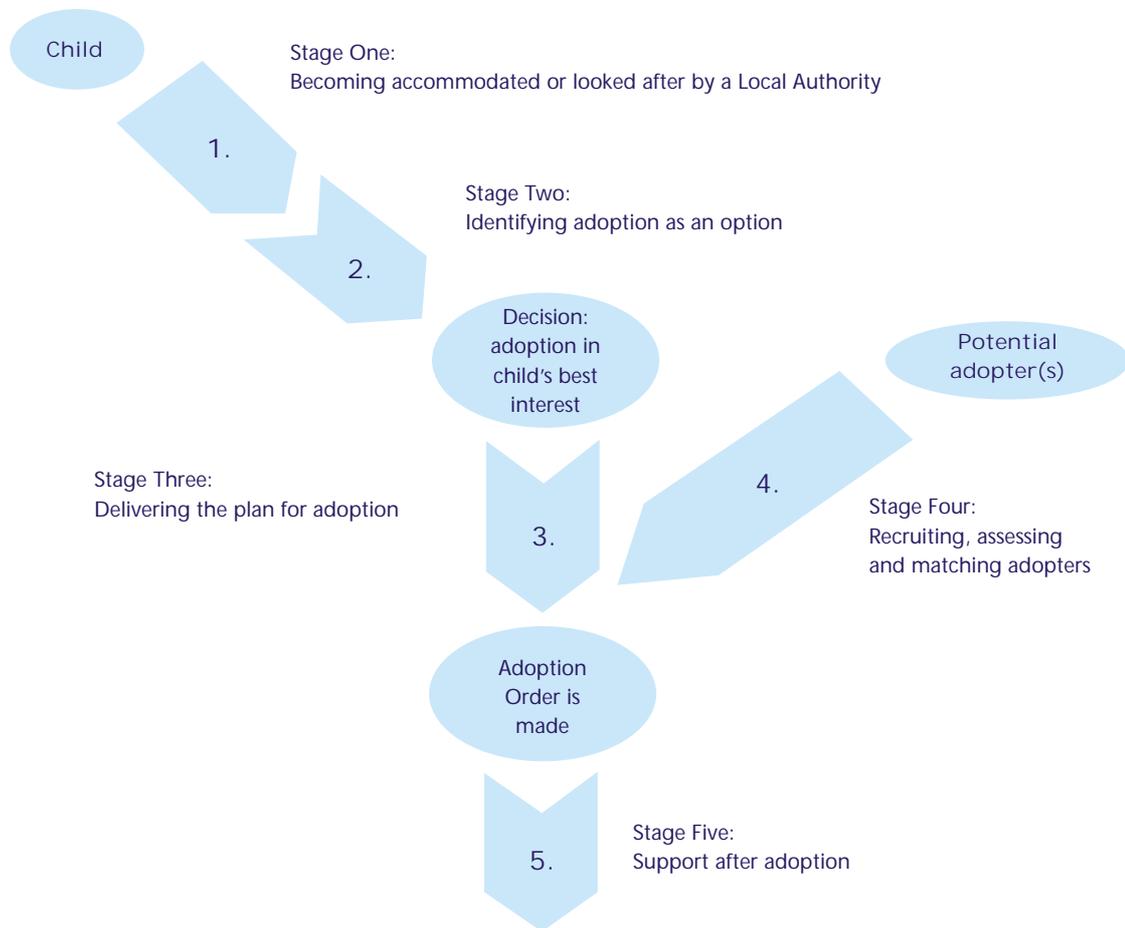
3.3 When this information on the stock of children spending a long time in care is combined with the evidence on the effectiveness of adoption set out in Chapter 2, and information on the current level of adoptions and the variable level of LA performance, it clearly indicates that scope exists to make greater use of adoption as an option for looked after children. This conclusion was widely shared by those the team consulted while conducting the study. The rest of this chapter explores the problems and barriers that prevent Local Authorities making more use of adoption.

## The adoption process

3.4 Figure 3.1 below provides a simple map of the adoption process, breaking it down into five stages. The flowcharts at Annexes 8,

9 and 10 describe the process in more detail. The rest of this chapter examines the problems and barriers that arise at each stage.

Figure 3.1: the Adoption process





## Stage One: Becoming accommodated or looked after by a local authority

3.5 This section sets out:

- the routes children take into the care system;
- the legal and administrative processes of planning and decision making;
- the legal pathways to adoption children follow through the care system.

### *Routes into care*

3.6 Local Authorities (LAs) have a duty to work in partnership with parents and try to prevent children, as far as possible, from entering the care system. Where, however, prevention is not achieved children enter the care system by one of two routes:

- voluntary accommodation; or
- via care proceedings.

3.7 At 31 March 1999 34,100 (60%) of looked after children were the subject of Care Orders and 18,900 (34%) were voluntarily accommodated at the request of their parents.

3.8 A child may be accommodated because:

- his/her parent is ill or unable to care for them on a short term basis;
- it is part of a child protection or children in need plan;
- he/she is a relinquished baby or child.

3.9 Most accommodated children go home. Accommodated children accounted for 66% of care leavers in 1998/9.

3.10 Where an LA considers that a child is suffering significant harm, or is likely to in the future, the LA can apply to the court through care proceedings for a Care Order under the Sc8 of the Children Act 1989. This places the child in the legal care of the LA. The LA acquires parental responsibility for the child and has the power to determine to what

extent the child's birth parents may exercise their parental responsibility.

3.11 When seeking a Care Order a LA may remove the child immediately with an Emergency Protection Order (EPO), if there is justification, or seek an Interim Care Order. Interim Care Orders must be sought every 28 days until the hearing for a full Care Order.

3.12 80% of looked after children adopted are subject to a Care Order when they are adopted, although over half of all looked after children adopted originally began to be looked after under voluntary arrangements<sup>1</sup>.

### *The legal and administrative process for planning and decision making*

3.13 Every child looked after by a Local Authority is subject to a defined set of procedures and processes for reviewing their case and planning their future, known as LAC procedures. Box 3.1 describes them in more detail.

3.14 The LA and court processes that are followed for children coming into care under care proceedings are complex both individually and in the way they interact with each other. Figure 3.2 shows a simplified version of what is happening in the court and LA arena at each stage of the process and how the two impact on each other.

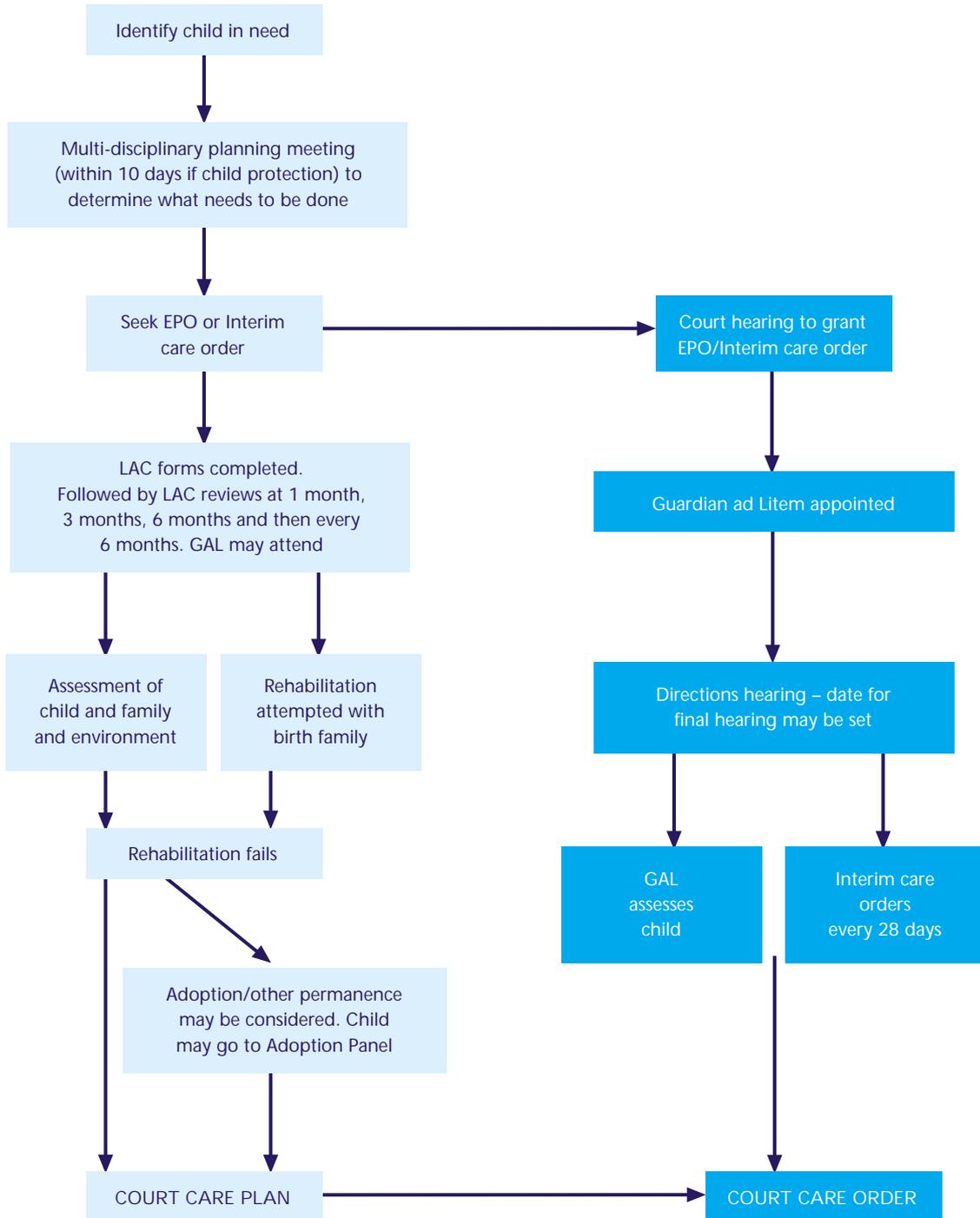
3.15 For accommodated children there is no court involvement and only the LA procedures apply. No Guardian ad Litem (GAL) is appointed and there is no care hearing but all the looked after children procedures described on the left hand side of the chart apply.

### *Pathways through the care system*

3.16 Children follow a range of legal pathways through the care system to adoption. Table 3.1 maps these for a sample of those looked after children adopted in 1996 where full "career" records were available.

1 BAAF (1996) *Children Adopted from Care*

Figure 3.2: Process of coming into care





### *Box 3.1: Looked after children procedures*

**Planned admission** – a Child Protection or Child in Need multi-agency meeting decides that a child needs to be Accommodated or subject to care proceedings (Child Protection conference must take place within 10 days of investigation). Rehabilitation with birth families and contact arrangements may be discussed and agreed at this meeting. The following LAC forms should be completed prior to placement:

- Essential Information Record which collects personal information about the child;
- Placement Plan part 1 that covers education, health and other services;
- The Placement Agreement which covers the expectation of the carers, contact etc;
- LAC Care Plan that may include rehabilitation plan if this was agreed.

**Unplanned admission** – the LAC forms should be completed within 14 days of placement.

**1 month after placement** – LAC review takes place. This is a multi-agency meeting to consider progress of the plan and any issues relating to the child's placement. GAL will be invited if care proceedings are in progress. The following documents should be available to the meeting:

- Placement Plan part 2 that provides further information about the child and family;
- Updated LAC Care Plan with any rehabilitation plan or other options;
- Consultation form prepared for each review to reflect views of child, parents and carers;
- Interim Court Care Plan which is a different document to the LAC Care Plan and must be re-submitted at each interim care hearing if there are any changes;

A LAC Review of Arrangements Form is completed after each review;

**3 months after placement** – 2nd multi-agency LAC review;

**6 months after placement** – 3rd multi-agency LAC review;

Assessment and Action Records must be completed for the child after 6 months. These assessment materials are intended to measure the individual progress of the child and cover seven key dimensions of child's functioning – health, education, identity, family and social relationships, social presentation, emotional and behavioural development and self-care skills.

Reviews must then take place at least every six months or more frequently if the plan needs to be changed. The plan cannot be changed without a review.

Court Care Plan – final version will be submitted prior to Care Hearing.

**Table 3.1: Legal pathways to adoption<sup>2</sup>**

Legal status/route	% of those adopted
Accommodated under voluntary agreement with birth parent ⌚ adoption	23%
Voluntary agreement ⌚ Freeing Order ⌚ adoption	5%
Voluntary agreement ⌚ Care Order ⌚ adoption	16%
Voluntary agreement ⌚ Care Order ⌚ Freeing Order ⌚ adoption	7%
Care Order ⌚ adoption	23%
Care Order ⌚ Freeing Order ⌚ adoption	17%
Emergency Protection Order ⌚ Care Order ⌚ adoption	9%

3.17 For over half of the children their legal status changed during their time in the system. Whilst half of the children entered the looked after system on the basis of a voluntary agreement with the birth parents, for 45% of those that did, circumstances changed, warranting a move to compulsory care under a Care Order.

## Stage Two: Identifying adoption as an option

3.18 This section examines:

- the process for identifying adoption as an option for the child;
- the timescale for decision making;
- the problems and barriers identified in Local Authorities;
- the problems and barriers identified in the court system.

### *The Process*

3.19 The looked after children (LAC) procedures described in box 3.1 provide the

framework within which Local Authorities plan and make decisions about the future of children in their care.

3.20 Where, through the LAC process, social workers identify adoption as an option for a particular child, the next step is to seek advice from the Local Authority's Adoption Panel. The Adoption Panel's role is to advise the LA on whether adoption is in the best interest of the child. It also has a role in approving adopters and matches between children and adoptive families (see Box 3.2 for more details). The Panel's recommendation is passed to the Local Authority's decision maker (usually a senior social services manager) who finally approves the proposed plan.

### *Box 3.2: Adoption Panels*

The Adoption Panel is a committee that advises the Local Authority on adoption issues. They make recommendations on:

- whether adoption should be the plan for a child;
- whether an applicant is suitable to be an adopter; and
- particular matches between adopters and children.

Panels meet regularly, and have a minimum membership of 6, but can be composed of up to 10 people. They must include legal and medical advisors, ethnic minority representation and 3 independent lay people (often including elected councillors, experienced adopters and adopted people). Voluntary Adoption Agencies also have Panels for approving adopters.

3.21 Local Authorities use the courts to secure the changes in legal status needed to carry through the plans made as a result of the LAC assessments and reviews, including plans for adoption. Where, for example, an LA seeks a Care Order with adoption as the Care

<sup>2</sup> *ibid*



Plan, they will need to provide the court with evidence that this is in the best interest of the child. How successfully the courts and Local Authorities work together therefore has a big impact on the successful formulation and implementation of plans for these children.

### *The timescale for decision-making*

3.22 For the looked after children adopted in 1998/9:

- the average time spent looked after before the decision was made that adoption was in the child’s best interest was 1 year 4 months;
- this varied significantly with age from 9 months for children under 1 month up to 2 years for children aged 6–12 months (see Table 3.2)

**Table 3.2: Time taken to best interest decision, by age at starting to be looked after**

Age of child when started to be looked after	Entry into care to best interest decision
Under 1 month	9 months
1–6 months	1 year 7 months
6–12 months	2 years
12–30 months	1 year 10 months
30 months–5 years	1 year 10 months
5 years and over	1 year 10 months

- 66% of those adopted in 1998/9 started to be looked after under the age of 12 months, but only 26% were still infants under one when the decision was made that adoption was in their best interest.<sup>3</sup>

3.23 These average figures alone demonstrate that the process for deciding on adoption can be lengthy. Given the improved outcomes associated with early placement, this strongly suggests that children would benefit from more timely decision making.

3.24 Combined with the evidence in Paragraph 3.1 that LAs make very variable use of adoption, and that it could potentially benefit more children, it is evident that significant problems and barriers are present in the system that lead to delays in decision making and prevent adoption being considered for more children more quickly.

### *Problems and barriers: Local Authority planning for permanence*

3.25 It is clear from our consultations that in many Local Authorities the planning process for looked after children does not address from the outset all the options for achieving a permanent home for the child and what the plan will be if rehabilitation with the birth family cannot be achieved.

3.26 This may mean that before Care Proceedings or accommodation even start, the child’s extended family may not have been fully engaged (for example through Family Group Conferences) in considering whether they could care for the child. Once the child is subject to care proceedings or is accommodated it may mean that adoption is not identified as the best option for the child at the right stage.

3.27 This happens because:

- once a child has been admitted into LA care the focus can too often tend to be exclusively on rehabilitation with the birth family. This is clearly the most desirable outcome but, if it turns out not to be achievable, a permanent home for the child may be delayed if contingency plans, including options for placement with extended family and for adoption or planned long-term fostering, have not been considered. The DH has, through the circular LAC(98)20 and subsequent guidance, sought to encourage the use of contingency planning, but this practice



is by no means comprehensively implemented, and there is confusion in the field as to what precisely is required;

- the absence of contingency planning can also mean that no common understanding is established of the timescale for rehabilitation plans. Birth parents are therefore unclear as to what is expected of them and all those involved do not have a sense of when the question of whether to continue with rehabilitation will arise;
- judging when rehabilitation is not viable or not within the child's time-scale is a difficult and highly sensitive task in which social workers receive limited training and guidance.

3.28 Where it becomes apparent during care proceedings that rehabilitation or placement with the extended family is unlikely, consideration of adoption as an option may still be delayed because:

- social workers may find it difficult to have to face the parents with this decision before the care proceedings have been completed. Often there has been no previous discussion about the possible options if rehabilitation does not work;
- the paperwork is onerous and involves seeking information from the parents which they are unlikely to be willing to give;
- many front-line social workers are inexperienced in adoption;
- those attending the regular LAC reviews of the case which should be considering the options at this stage may find it hard to stand back and consider objectively what should happen next.

3.29 The Care Plan must address alternative options but, given the issues set out above, there can be a tendency for social workers to either avoid options that involve conflict (ie. opt for long term fostering rather than adoption), or, for the sake of securing the Order, accept solutions proposed by GALs

(eg further rehabilitation efforts), even though they are not fully convinced of their merits. The former risks losing the chance of providing true permanency, the latter is a recipe for delay and drift.

3.30 Where a child has been accommodated the same failure to plan proactively for permanence can apply. It may be more difficult to know, when a child has been accommodated at the request of the parent and the parent retains parental responsibility, when the right moment is to consider other forms of permanence. It is all too easy, however, where there is no court process driving the development of the Care Plan for accommodated children to wait for long periods with no active planning for their future or consideration of whether care proceedings should be instigated.

3.31 This is particularly likely to happen where cases are not allocated to a social worker. Many LAs have a significant number of unallocated cases because of the very high level of social worker vacancies reflecting the overall shortage of qualified social workers. While this is unlikely to affect cases during Care Proceedings, which will be prioritised, it may well affect accommodated children and children for whom a Care Order has been made. This leads to the risk of drift.

3.32 Practical difficulties can arise applying for a Care Order if it becomes clear that a child who has been accommodated for a long period of time is not going to be rehabilitated but if the birth parents will not agree to another option for permanence. The test that the child has experienced significant harm or is at risk of serious harm may be difficult to prove when they have not lived at home for several years.

3.33 Some commentators have suggested that these problems are the result of social workers' hostility to adoption. While there can be issues at an individual level, the study found little evidence of an institutional anti-



adoption culture in social services departments. The more likely explanation for the limited use of adoption, on the basis of our visits and consultations, is that both social workers and their direct managers are (properly) highly committed to working to reunite children with their birth parents and the structures and procedures are not in place to ensure they think more widely than that. Social workers are also relatively untrained and inexperienced in adoption work.

### **Problems and barriers: the courts**

3.34 Delays in listing final care hearings are a common cause of lengthy care proceedings. Sample data shows that the average length of Children Act proceedings in the County Court is 11 months. Averages for individual courts range between 35 and 70 weeks<sup>4</sup>. In London and Portsmouth we were told the normal wait for a final care hearing was 6 months or more. The target for Children Act cases when the Act was passed was 3 months. Considered from the perspective of the child and his or her needs these are very long periods of time.

3.35 Where there is little or no prospect of rehabilitation – such as relinquished infants or babies removed at birth following the adoption of a series of siblings – a delay of 6 months before they can be placed for adoption is inordinately long. There is no fast tracking procedure, however, for these cases.

3.36 There are considerable frustrations between Guardians ad Litem and judges on the one hand and social workers on the other about the progress of Care Proceedings.

3.37 A commonly described scenario is one where, a considerable way into the Care Proceedings, possibly at the care hearing itself, the court takes the view on the advice of the Guardian ad Litem that the Local Authority's rehabilitation plan has not been

sufficient or satisfactory or that more consideration should be given to extended family members. This can result in a further lengthy period of work and another long wait for the care hearing to be listed. Where a child has already typically been in care for 6 months to one year, delays of this order, if avoidable by improving the way cases are handled, cannot be regarded as acceptable.

3.38 Instruction of separate expert witnesses by Guardians ad Litem, particularly late in the proceedings is also cited as a source of delay and duplication.

3.39 Social workers often take the view that Guardians who are qualified social workers, (although not always experienced in adoption or child care) are exceeding their remit and second-guessing the work of the Local Authority.

3.40 Guardians, on the other hand, report that social workers have often not done sufficient or satisfactory work and where they have, do not have the experience or training to persuade the court. There is significant support for this view among the judiciary.

3.41 More neutrally, it is suggested that one of the factors driving court and GAL requests for further rehabilitation once they engage in cases, is to enable them to observe it themselves rather than relying on earlier work carried out by the Local Authority. Given the highly sensitive nature of these decisions this is an understandable sentiment.

3.42 Delay may also be caused by the court agreeing to late instruction of expert witnesses or assessments requested by the birth parents. The imperative to give the birth parents every chance may sometimes obscure the need to remain within an acceptable timetable *for the child* in achieving permanence.

3.43 Once adoption is under consideration as the Care Plan, there seems to be some

4 data from President's Adoption Committee



confusion about the nature of the decision courts are taking when they approve adoption as the care plan under a Care Order. Some courts require social workers to present them with the details of the prospective adopters so that they can judge whether adoption would be in the child's interest<sup>5</sup>. Others see themselves as taking a decision that adoption would be in the child's interest *in principle*. While courts may be making a laudable attempt to grip potential drift in LA activity at this point, and encourage contingency planning, in practice requiring

adopters to be identified as a matter of routine is not workable. Social workers find it difficult to ask adopters to consider being linked with a child before it is known whether the courts will make a Care Order because of the potential for disappointment, while Adoption Panels will be unwilling to recommend an 'at risk' match. It is also, for the same reason, inappropriate to begin to prepare the child itself for adoption before the order is made, which makes any meeting between the child and prospective adopters problematic.

### *Box 3.3 Delivering the plan for adoption – definitions*

- for the Adoption Panel, see Box 3.2;
- a Schedule 2 report is a report, under the 1984 Adoption Rules, by the adoption agency (in this case the Local Authority) setting out all the facts the court will wish to consider in granting an Adoption or Freeing Order, and setting out the agency's case for the making of that order;
- a Freeing Order is an order that frees a child for adoption, transferring parental responsibility for the child from the birth parents. An Adoption Order can then subsequently be made without the court requiring any evidence of the parent's consent. Local Authorities can (and in some cases do) apply for Freeing Orders simultaneously with Care Orders where the care plan is for adoption. This can increase greatly the likelihood of finding a placement for the child, and reduce the anxiety of prospective adopters with whom the child is or may be placed. First, it reduces the prospect of the eventual Adoption Order not being granted, as the matter of the birth parents consent has already been dealt with. Secondly, because, unlike the Adoption Order, it is the Local Authority that applies for the Freeing Order, the prospective adopters do not usually have to face appearing in court. One study found that 21% of children are already placed in adoptive homes when application for Freeing is made, 35% are placed with adoptive families during proceedings and 44% placed afterwards;<sup>6</sup>
- a Reporting Officer is appointed by the court in Freeing and Adoption cases. Their role is to confirm that where consent has been given by the birth parents, it has been freely and correctly given;
- a GAL is appointed, as in Care proceedings, in those situations where the birth parents do not consent to the making of a Freeing or Adoption Order. Their role is to conduct an *independent* investigation, including of the issues dealt with in the Schedule 2 report, and make a report to the court.

5 See in particular the recent judgement *Bracewell J Re D and K*, 1 July 1999, which was widely praised by the judges and legal professionals we consulted, but criticised by adoption workers and agencies for raising some unrealistic expectations

6 Lowe et al (1993) *Freeing for Adoption Proceedings*, HMSO

## Stage Three: Delivering the plan for adoption

3.44 This section examines:

- the process for delivering the plan for adoption once this has been agreed;
- the key problems;
- delay in LAs and courts;
- consistency in LAs and courts;
- consent.

3.45 Once the plan for adoption has been approved, the Local Authority's role is to ensure that it is delivered. This is a complex process, involving not just continued interaction with the courts, but also the identification of suitable adopters, preparation work with both the child and the adoptive family, placement of the child with their prospective new family and, finally, the granting of the Adoption Order itself.

3.46 Figure 3.3 below provides a simplified map of this process while Box 3.3 explains the technical terms used. Once again, successful interaction between LAs and the court system can be crucial to making timely progress.

### *What are the problems?*

3.47 There is a general consensus that the adoption process is not satisfactory as it currently operates. There are three distinct but inter-related problems:

- delay – the principal complaint is that the whole process is subject to unjustified delay, to the detriment of all parties involved, but especially the child;
- consistency and quality – the quality of practice and the way the process is run varies widely in both Courts and Local Authorities. This impacts both on the length of time the whole process takes, and on the experience of the children and parents involved;

- consent – the handling of this sensitive and central issue is a key driver of both the length and complexity of the process, and the quality of the experience for the child and for both sets of parents.

### *The extent of delay*

3.48 In terms of the overall time taken, 65% of looked after children adopted wait over 1 year between coming into care and being placed with a prospective adoptive family. The length of time spent in care before actually being adopted was on average 2 years and 10 months in 1999. Some 36% of looked after children adopted in that year had been in care for more than 3 years. However, the application for the final adoption order is made by the prospective adoptive parents, so the Local Authority does not have direct control over when this step is taken. It is important adopters do not apply until they are confident about the match.

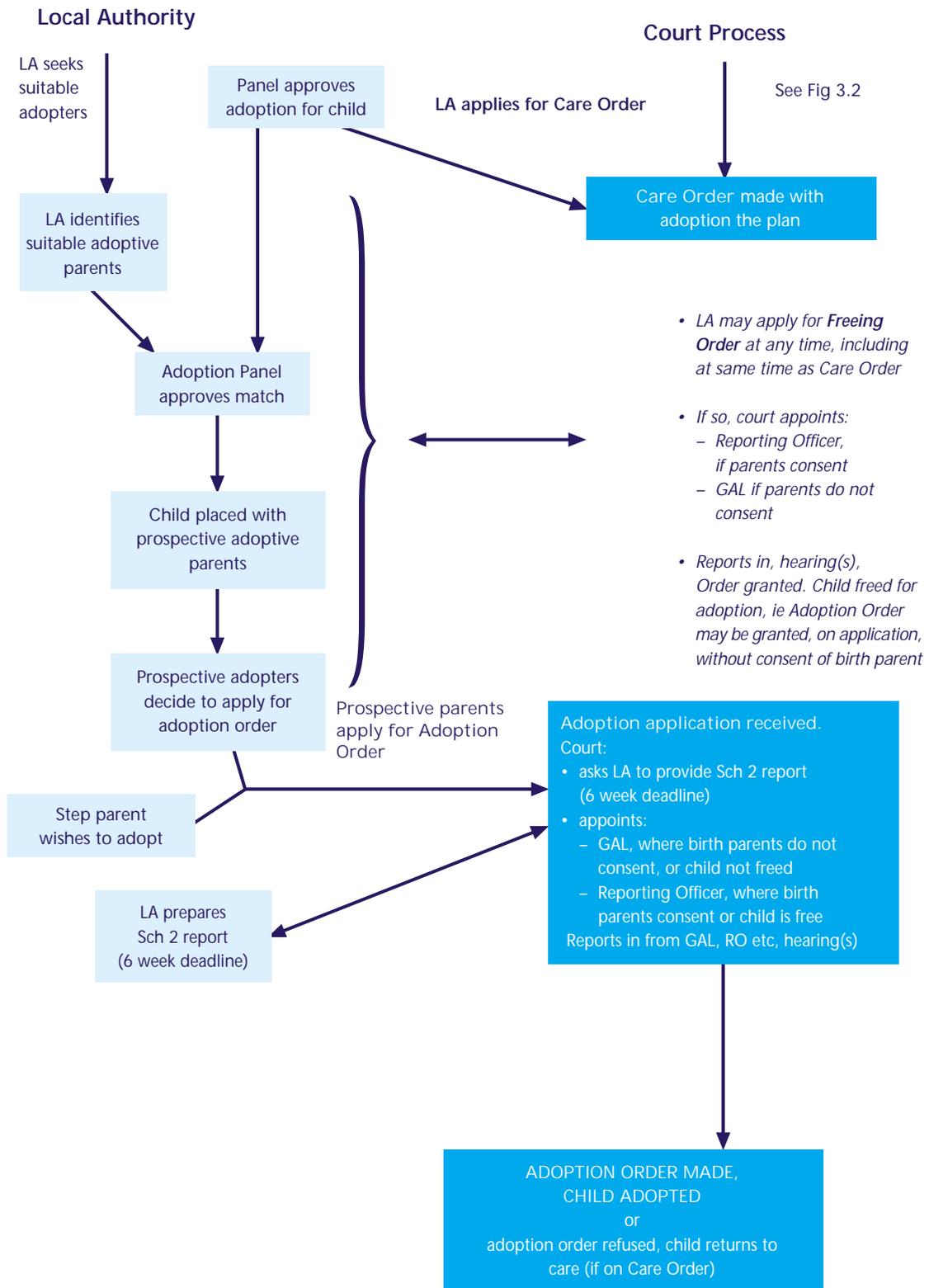
3.49 The key points about delay in delivering the plan for adoption:

- it takes on average 6 months between the decision that adoption is in a child's best interest and a match being made;
- the average time between match and placement is one month;
- the average time between placement and adoption is one year 2 months;
- older children take longer to match and place, and wait longer once placed to be adopted;
- adoption proceedings take 6.3 months on average from the date of applying for the Order (where the child has not been Freed). Contested cases take 7.9 months, compared to 4.5 months for uncontested cases;<sup>7</sup>
- Adoption Proceedings are faster where the child has previously been Freed, averaging 3.3 months;<sup>8</sup>

7 ibid, Murch et al (1993) *Pathways to Adoption*, London, HMSO

8 Murch et al op cit

Figure 3.3: Delivering the Plan for Adoption





- Freeing Order cases take longest, averaging 9.3 months. This is because many more are contested than Adoption Order cases, and involve more court time:
  - 75% of Freeing applications are contested, compared to 25% of Adoption applications;
  - 31% of Freeing applications are settled at first hearing, compared to 78% of Adoption applications;
  - contested Freeing cases take on average 9.7 months<sup>9</sup>;
- step parent adoption cases take longer. This is because both Local Authorities and the courts see them as less urgent, since the child is already living with a birth parent and rarely perceived to be at any risk of harm.

3.50 The tables in Annex 6 provide more detailed information on timescales. This has come from specific research studies. Almost no data on the time the process takes is consistently and routinely available from management information systems either in the Court system or Local Authorities. This is itself an indication of the lack of overall grip on getting through the process in a timely manner.

### *Local Authorities and delay*

3.51 Four main elements of delay are associated with Local Authorities. The first is lack of “grip” on the process. As with looked after children generally, there is a very mixed picture as to whether Local Authorities track and manage the progress of their children through the process of matching, placement and adoption. Not doing so risks letting the child drift. There can often be a relaxation of effort once the Care Order has been secured, as the child is perceived to be safe, and social workers’ attention can often be diverted to more urgent matters, for example, child protection work. At the

moment there is a lack of external stimulus to ensure timely progress is made delivering the plan for adoption.

3.52 Second there is delay in identifying prospective adoptive parents. This holds up the whole process. Recruitment and matching of suitable adoptive parents is dealt with in the next section. In the context of the legal process, judges’ experience of placement for adoption being delayed can and does influence their willingness to approve Care Plans with adoption as the plan and Freeing applications (where they are unwilling to free children where there seems little prospect of placement) (see paragraph 3.43).

3.53 Third, there are delays associated with Adoption Panels. Some Local Authorities reported that the process for individual children could be held up by failure to secure a timely slot at the Adoption Panel to consider the case (either the panel was not meeting in the near future, or was “full”). Others said their panels heard as many cases as were necessary, and did not hold up progress.

3.54 The final contributing factor is delay in completing reports. Schedule 2 reports are very frequently not completed within the 6 week statutory time limit. Neither Reporting Officers nor, where appropriate, GALs can proceed effectively with their own inquiries until they have received the report, so delay has a knock on effect on the whole legal process.

### *The court system and delay*

3.55 There are three main elements of delay associated with the court process. The first is delay in securing court time. Many parties told us that the time period between application and hearing was often too long. This delay varied on a geographical basis.

3.56 Second, there are delays in resolving Legal Aid. In some cases the start of adoption proceedings is delayed while applicants are



required to apply for Legal Aid (even though they were highly unlikely to secure it) because the Local Authority will not pay for the proceedings until the applicants have been turned down by the Legal Aid board. It is clearly unacceptable that an administrative exchange between two different public services should hold up the adoption process.

3.57 Third, there is a general lack of “grip” or management of the process by the courts. In some courts judges take a clear grip on the managing Adoption Proceedings, using directions hearings to set clear timescales for all parties, but this is certainly not standard practice. In many cases the pace of the process is being driven by the speed at which the various parties chose to complete their tasks, with no central drive or focus.

### *Consistency and quality: Local Authorities*

3.58 There are two main areas where Local Authority practice has a negative impact on the process. The first is the mixed quality of social work. Failure by social services to plan and assess properly and to explore fully and competently all the appropriate options to the child can often lead to GALs recommending to courts that additional work (eg. assessments and further attempts at rehabilitation) be carried out before Orders are granted. This additional work adds greatly to the length of time the process takes. This is of course the same issue raised earlier in respect of care proceedings.

3.59 Second, LAs make inconsistent use of Freeing and Care Orders. Freeing can speed the eventual adoption proceedings, but it can be a lengthy legal process in itself. It is therefore clearly preferable that, where Freeing is appropriate, it should wherever possible happen simultaneously with the Care Order, rather than sequentially. Current Local Authority practice in the use of Freeing varies widely on a geographical basis, and seems to be determined as much by

organisational culture (and by the attitudes of the courts – see para 3.60 below) than what is appropriate in each case.

### *Consistency and quality: the court system*

3.60 There are three principal problems. First, inconsistency in allowing consideration of Freeing Orders. Some judges are unwilling to consider Care and Freeing Orders simultaneously, while others favour the practice. This causes problems for some Local Authorities, who may have to deal with courts with two differing interpretations in a single LA area.

3.61 Second, unrealistic expectations. This is a variant of the problem experienced in Care Proceedings (see para 3.43). Some courts are requiring Local Authorities to present the court with prospective adopters (or even a choice of prospective adopters) before granting Freeing orders. While reflections of the courts’ unwillingness risk a child being Freed and there then being a long delay before placement, given the shortage of prospective adopters, and the sensitivity of the process, it is highly questionable where it is realistic both to expect that a family will always be available at this stage or to ask them to be provisionally matched with a child on an “at risk” basis.

3.62 Third, a perception that the courts tend to give the “benefit of the doubt” to birth parents. Some social workers and others express the view that the courts feel the need to give the “benefit of the doubt” to birth parents, and therefore order repeat attempts at rehabilitation. Some of this may result from the inability of inexperienced social workers to convince the court that earlier rehabilitation efforts have been robust. On other occasions it may stem from a combination of interpretation of the Children Act and a general unwillingness to see the child removed from its natural parents without the reassurance of a second shot



at rehabilitation. The latter view does not take fully into account the effects of delay on the child.

### *Handling consent to adoption*

3.63 The third principal problem identified most often concerning the adoption process is that, the current legal framework does not allow consent to be handled in the most effective manner.

3.64 Adoption is contested either because the birth parents oppose the plan to have their child adopted, or because they do not wish to go on record as having consented to adoption, even though they agree it is in the best interest of their child:

- 75% of Freeing applications are contested, and 25% of all Adoption applications;
- it is estimated that 22% of Freeing applications are actively contested at the hearing court, and 4% of all Adoption applications.<sup>10</sup>

Contested cases take longer to deal with and are harder on all those involved.

3.65 A consistent view was expressed to the study team that the number of contested Freeing and Adoption hearings could be reduced if the current consent form was more sensitively worded. At present it is rather bald. It has been suggested that it should reflect the fact that while the birth parent had agreed that adoption was in the best interest of their child, this was not a decision they had come to easily or lightly. Improved counselling of birth parents throughout the care and adoption proceedings was also put forward as a means of reducing the adversarial nature of current proceedings.

3.66 There was a very strong consensus that it was best for all parties involved that consent be dealt with as early in the adoption process as possible. The availability of Freeing was felt to be helpful in so much as it facilitated this. However, in addition to the issue of

inconsistent uses identified earlier, Freeing Orders were themselves viewed as flawed instruments. They had originally been designed (in the 1970s) primarily as a means of allowing consenting parents to make their child available for adoption, but were now also being used in conjunction with Children Act mechanisms to expedite adoption for looked after children in the absence of consent as well. In addition, they left Freed children without a legal parent which was both generally unsatisfactory (and unpopular with lawyers and judges) and likely to be vulnerable to ECHR challenge.

## **Stage Four: Recruitment, assessment and matching of adopters**

3.67 This section describes:

- the process associated in the recruitment of adopters;
- the two central problems with this stage of the process;
- the detailed issues concerning initial recruitment, assessment and preparation and matching of children and adopters.

### *The process of recruitment, assessment and matching*

3.68 Figure 3.4 illustrates the main elements of the process for recruiting, assessing and matching adopters. After identifying the central problems with this stage of the process, the rest of this section examines each of these elements in turn.

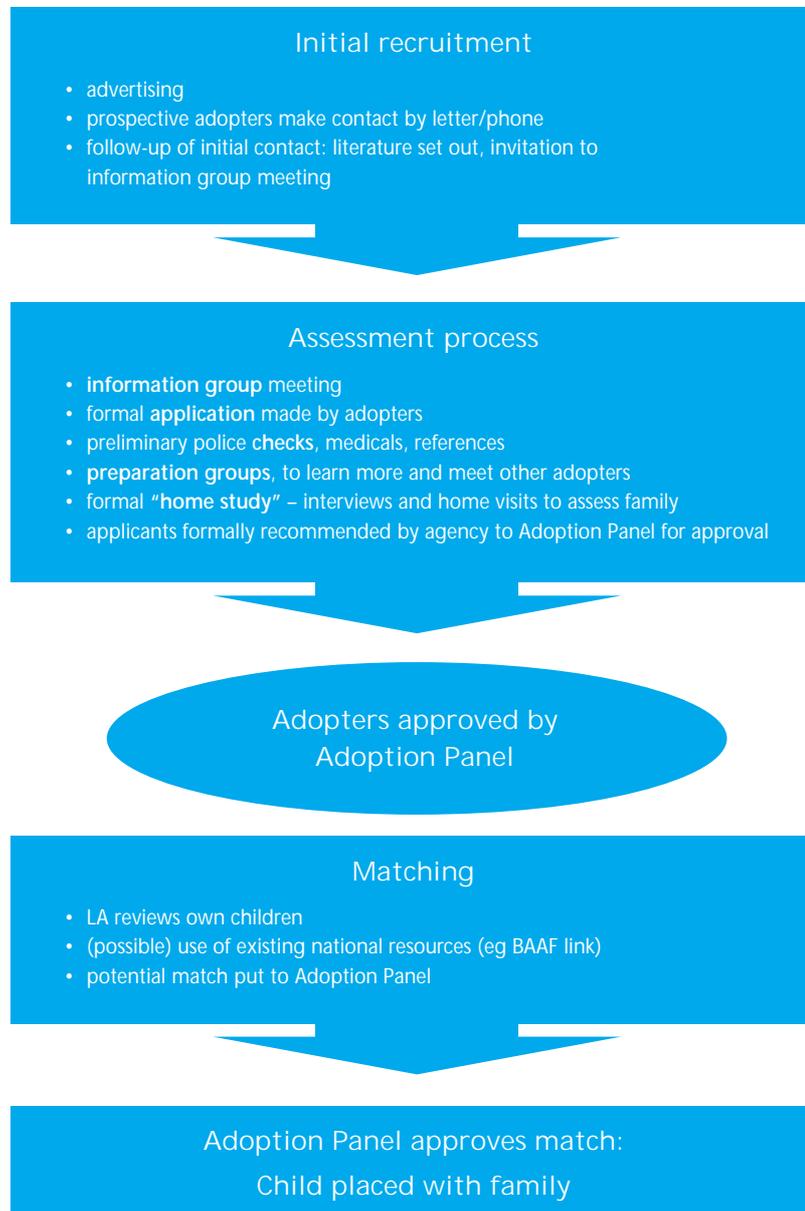
### *The central problems*

3.69 The recruitment and assessment of adopters has received intense and widely publicised criticism. This attention has been mainly focused on current assessment practices as well as the delay in finding and matching adopters for those children who

10 *ibid*



Figure 3.4: Recruitment, assessment and matching process



are waiting to find a family. If the numbers of adoptions are to be increased, it is crucial that the problems in this area are resolved and that more adopters are successfully and efficiently recruited and assessed.

3.70 There are two key problems:

- a shortfall of suitable adopters. Last year there were 2,200 children adopted from care but over 2,400 children were still waiting to find parents<sup>11</sup>. This gives

some indication of the shortfall between the current requirement for adopters and the number of suitable adopters coming forward. These figures should not be seen in isolation as the time spent waiting is a more informative indicator of the scale of the problem. The time between ‘best interest’ decision and placement was on average 7 months in 1998/9<sup>12</sup>. However, a 1999 survey by the Social Services Inspectorate<sup>13</sup> revealed that one third of

11 Findings from the Survey into the Implementation of Department of Health Adoption Circular LAC(98)20

12 BAAF 1998/9 op cit

13 Findings from the Survey into the Implementation of Department of Health Adoption Circular LAC(98)20



children for whom adoption was the plan had been waiting for families for more than a year<sup>14</sup>;

- delays in assessment and matching which can produce long waits for adopters before a child is placed with them. Despite the shortfall in the number of suitable adopters, those that are approved as adopters face a significant wait: BAAF<sup>15</sup> found that time between approval and placement was on average 9 months. The extent of the mismatch between waiting children and approved adopters is further illustrated by the SSI findings which revealed that there were approximately 2,400 children for whom no adopters had been identified but at the same time 1,300 adopters who had been recruited but had no children placed with them.

3.71 The extent to which these figures represent a genuine mismatch and/or a failure in the process, is not clear. However, we do know that shortfalls exist for certain groups of looked-after children. The same SSI findings showed that approximately 10% of approved adopters were from black and minority ethnic groups whilst 17% of the children with adoption as the plan were from the same backgrounds.

### *Initial recruitment: practice and problems*

3.72 There are four issues to highlight concerning the initial recruitment of adopters:

- current recruitment practice among LAs;
- the role of the interagency fee;
- current consortia arrangements;
- recruitment activity at national level.

### **Current recruitment practice**

3.73 The evidence from the organisations which we consulted showed that recruitment activity and

practice was variable. Almost all used general recruitment campaigns to recruit adopters but the degree of activity varies. LAs recruit adopters using a variety of methods: advertising in the press including the radio, specialist magazines, adverts in GP surgeries, Yellow Pages; many have internet sites listing adoption services; one authority we spoke to had a dedicated telephone line. Authorities have information leaflets on adoption, but few had translated them into other languages.

3.74 Some agencies tend to recruit hand-to-mouth i.e. targeting and assessing adopters for a particular child, sometimes adopting a saturation approach, whilst others try to maintain a rolling list of people interested. The Voluntary Adoption Agencies (VAAs) tend to be specialist recruiters in the sense that they operate closely with LAs in finding adopters for particular children, more usually those with very particular needs e.g. large sibling groups, children with severe disabilities. The strategies followed by Voluntary Agencies also vary; some advertise in the national press, others prefer a local approach.

3.75 These differences reflect both the differing scales of the recruitment function carried out by agencies, the agency culture and profile given to adoption. There is currently no guidance or criteria on recruitment methods nor requirements to attain a certain level of recruitment. On the other hand, the team found that there was little knowledge about what works and what doesn't and which were the most effective advertising methods.

3.76 What was clear from our discussions with agencies was whatever effort was put into advertising, there was a huge drop-out rate from initial enquiries to the number of approved adopters. As

14 In a smaller but more detailed survey, the SSI found that from the adoption panel recommendation to finding a match just over 60% of the authorities achieved this within 6 months. However, for the remainder the average was 16 months.

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a general rule-of-thumb, 1-in-10 of initial enquiries would result in an approved adopter. Some specific adverts could result in hundreds of phone calls, but often when people found out more they decided not to pursue their application – even at this early stage.

3.77 The reasons for this are not clear. It could simply be that enquirers have an expectation which is different to the reality i.e. still expect healthy babies, or they simply apply to a number of adoption agencies. Another possibility, which was raised during our discussions, was that potential adopters are ‘put-off’ at an early stage in the process by the general response they receive. This can either be in the time taken to receive the information requested – one LA which had done an evaluation of its service reported that in some cases it had taken two to six weeks to reply – or in the general manner in which the enquiry had been received. We received a number of reports of unfriendly, unsupportive or even insensitive reactions to people making enquiries.

### The Interagency Fee – how fundamental a problem?

3.78 If a Local Authority is not able to match a child with adopters available locally, it can place children with adopters from another Local Authority or from Voluntary Adoption Agencies (VAAs). In either case a fee is paid. VAAs charge £14,000, LAs charge £10,000 – both are adjusted for higher costs in London. In principle this fee system should provide an incentive for Authorities to recruit adopters since it places a value/price tag on approved adopters.

3.79 The fees are fixed by the Consortium of Voluntary Agencies and by BAAF and relate to the national pay scales for social workers. Our consultations revealed that some authorities thought that the fee was far

too high and the cost of recruiting a set of adopters was actually around £3,000. On the other hand, voluntary income is used to subsidise the VAA fee in order to cover costs<sup>16</sup> – however, although recruiting potential adopters is the VAA’s main activity they undertake other adoption-related activities too.

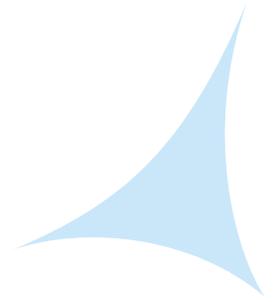
3.80 The system of paying fees between agencies tends to be viewed negatively and is *perceived* by some to be to be unworkable and a major obstacle to rapid placement. However, in practise the *reality* is somewhat different: LAs place around a fifth of children with VAAs<sup>17</sup> and pay them the appropriate fee as well as placing children with adopters from other LAs.

3.81 However, LAs manage the fee in different ways which may contribute to the difficulties in making it work. With limited resources, some set a ring-fenced budget for inter-agency placements while others permit only a certain number of such placements. Often any revenue which could be earned from providing placements for children from outside the LA area is ‘lost’ in a general LA revenue budget, rather than being passed through to the budget for child services or placement, from which any outward fee costs will have to be met. The way in which LA budgets operate can mean that the costs of providing the various services are “hidden”, preventing decision makers from understanding the full financial consequences of the options available and making sensible direct trade-offs. For example, the difference between the cost of the interagency fee relative to a year of fostering costs may not be clear, or the budgeting system may prevent children’s services managers from reaping any financial benefits that an “up-front” fee payment may yield.

3.82 Therefore we concluded that the fee was not *in itself* a significant barrier to recruitment and matching.

<sup>16</sup> Consortium of Voluntary Adoption Agencies Annual Statistics 1998–1999

<sup>17</sup> *ibid*



However, there are factors in the setting of the fee and the management of it which mean that it works less than perfectly and which need to be addressed.

3.83 Some people suggested to us that abolishing the fee would solve all the problems. However, this would resolve little – recruiting, training and approving adopters is not a costless activity – it is right that these costs should be reflected. More attention needs to be focused on setting a fee that more accurately reflects the costs of recruiting adopters and ensuring that LAs have the right financial management structures in place in order to allow the fee to work.

3.84 It is apparent that the inter-agency fee is not the only factor inhibiting recruitment and mobility between areas. There are some good reasons for preferring to place children locally where possible – not only are the child's existing school and established friendships important in maintaining stability but the child's own social worker needs to be able to visit throughout the placement period. This is more cost-effective if it involves minimal travel outside the LA area. Moreover, LAs experience problems in arranging support from other services for placements outside their own area (see the next section). Local placement can also make contact arrangements easier. Therefore it is only in specific circumstances, or for the most difficult placements that LAs feel justified in looking outside the local area, and for the other cases the desire to place locally can contribute to delay. In each case, the long-term interests have to be carefully weighed up for each individual child.

### **Recruitment through consortia arrangements between LAs and others**

3.85 Recent DH guidance<sup>18</sup> encourages Directors of Social Services to develop collaborative arrangements with others

providing adoption services. Planning requirements and implementation of the Quality Protects initiative reinforces this. Sharing resources, increasing placement choice and avoiding payments of the interagency fee have also contributed to the development of consortia, some of which have been in existence for a number of years.

3.86 Currently there are around 10 identified consortia largely comprising LAs but some also involving VAAs<sup>19</sup>. The 1999 SSI survey<sup>20</sup> found that three-quarters of Social Services Departments (SSDs) had some form of consortium arrangements and a third had arrangements with VAAs. The consortia appear to operate in a variety of ways – lower or zero interagency fees between members, agreed recruitment targets, joint promotional activity/recruitment campaigns. We found a mixed response to the success of these collaborative efforts. Some of the arrangements appear to have become very complex (i.e. cannot be in deficit to the consortia pool by more than a certain number) and this has led in turn to difficulties in checking that members are adhering to a set of pre-defined rules.

3.87 In some cases the effort involved in running the consortia outweighed the benefits they were designed to achieve and the consortia were on the verge of breaking down. Furthermore, there was not always a clear understanding of these arrangements within the organisations – some staff on the ground did not know they existed.

### **National level recruitment activity**

3.88 In terms of recruitment, there is currently little that takes place within the national context. The main vehicle is National Adoption Week, which will be run again this year in October. Occasional television series can contribute to raising awareness. Other national initiatives

18 Circular LAC(98)20

19 "Consortia Arrangements between Local Authorities, and between Local Authorities and Voluntary Adoption Agencies", Report for the Department of Health

20 Responses to issues arising from SSI survey of LA Social Services implementation of LAC(98)20.

such as BAAF*Link* and "Be My Parent" are essentially for matching and are considered in paragraphs 3.110–112 below. Whilst the national events raise the profile of adoption, their one-off nature illustrates that recruitment of adopters is not seen in a national context. Local Authorities overwhelmingly perceive recruitment as being about meeting their local needs. There is no focus on helping to provide a national pool of adopters that all can draw on and the fee system as it currently operates fails to transmit effectively the incentives that might challenge this mindset.

### *Assessment and preparation: practice and problems*

3.89 The assessment process is undertaken by the recruiting agency's (either the LA or VAA) social workers often, but not always, working as a dedicated recruitment team. It is a potentially difficult and sensitive area for all involved where trust on both sides is an important factor. Potential adopters, many of whom may have never come into contact with social workers, can feel a sense of powerlessness – being judged as to whether or not they meet an ideal of 'perfect parents'. Social workers, for their part, need to ensure that they have taken account of all the possible factors needed to inform the decision for approval.

3.90 There are four main issues around assessment:

- the length of time the process takes;
- how assessment is carried out;
- who currently gets approved;
- what makes a successful adopter.

#### **The length of time needed for assessment**

3.91 Agencies take between 4 to 10<sup>21</sup> months from the time of the group information evening to approval by the

Adoption Panel. There is no agreed timescale, but we identified some degree of consensus that 6 months could be viewed as a satisfactory target time. This would allow both parties sufficient time to work through the assessment process and all the implications of being prospective adopters.

3.92 There are some identifiable delays in the process. The initial Information Group meetings for those who have expressed an interest in adopting are often arranged periodically and we heard that some were cancelled because of insufficient applicants.

3.93 The issue of the time taken to process police checks on potential adopters has been put forward as a cause of concern. Although these were cited by people we spoke to as a problem in some cases, the evidence is variable. Official figures suggest that 2 months is the maximum time to complete an inquiry made under child protection guidance within the police force area, and under 3 months for an inquiry outside the force area<sup>22</sup>. This is less than the delays experienced by some of the SSDs we met where some checks had taken up to 5 months. It could be that other checks required for child protection guidance e.g. for teachers, social workers etc. are being given priority ahead of those for adoption.

3.94 In the context of the whole assessment period of up to 6 months, the issue of police checks is clearly not a factor which is ultimately delaying the process of getting adopters approved – the assessment can, and often does, start without the results of the police check. It is costly if this subsequently leads to the assessment being terminated and it would be preferable to avoid it, but we believe that it only happens in a tiny fraction of cases.

3.95 The same Adoption Panels that approve children for adoption are also required to approve adopters and are

<sup>21</sup> Figure of 10 months from Children and Families in the Voluntary Sector, BAAF.

<sup>22</sup> Response by Charles Clarke in Hansard Written Answers 17 March 2000, col 371W.



currently run by both SSDs and VAAs. Similar problems arise here to those described elsewhere concerning the frequency and capacity of panels, which can lead to delay (paragraph 3.53).

### How assessment is carried out

3.96 The British Association of Adoption and Fostering (BAAF) Form F is universally used as the principle means of assessment. This is in two parts: part 1 gathers factual information together with medical and personal references. It includes sufficient information to provide an initial link with a child. The other parts relate to gathering a social history of the applicants and a new competency-based assessment. The form includes the social worker's overall assessment and recommendation. Although Form F is widely used, and has the benefit of allowing consistent assessments, the team heard that it is not always seen as the best way of assessing applicants. It is long, detailed and can be construed as intrusive.

3.97 A new competency-based assessment to supplement the existing Form F has been developed by BAAF. It has not yet been used extensively on the ground so it is difficult to gauge the views of practitioners. Our view is that it seems to require evidence of parenting skills which would be very demanding of any parent. These requirements may be difficult to find in many adults who do not already have parenting experience unless some help and training is available.

3.98 Some agencies have developed more innovative approaches to the process which are complementary to the BAAF form F. For example, the Catholic Childrens' Society require applicants to attend a series of 6 group modules which are run concurrently with the Home Assessment. These allow group discussion around themes and enable prospective applicants to meet adopters.

Other ideas are for a progressive module approach where prospective adopters are being trained with the requisite skills at the same time as undertaking the assessment process. Research evidence has demonstrated that effective preparation has a strong influence on delivering a successful final outcome in terms of a stable adoptive placement. In the context of the more demanding role of adopters in meeting the needs of challenging children, this could be a more effective route to follow. It may also help potential adopters to feel valued and have continued contact with the process of assessment. Currently the process can to some feel intermittent and incoherent.

### Who gets through the assessment?

3.99 There is very little information about how many applications are 'lost' before they reach the Adoption Panel stage, or for what reasons. They may:

- be rejected as a result of police checks, medicals or references;
- decide not to proceed e.g. having acquired more information about what is involved, decided to pursue fertility treatment or become pregnant;
- drop out, as a result of the assessment process itself (too intrusive etc.);
- be "counselled out" by social workers.

3.100 There clearly needs to be more follow-up in this area to see what could be done to improve the process. The fact that little information on the drop-out rate exists suggests that a better monitoring system should be put in place.

3.101 Of those applicants who remain at the Adoption Panel stage, a BAAF study<sup>23</sup> found that 94% were recommended for approval. What do we know about those who are approved? Results, largely from BAAF studies

23 Children and Families in the Voluntary Sector, BAAF

of both VAAs and SSDs reveal that successful applicants are:

- predominately white couples<sup>24</sup>;
- likely to be married – only 6% are single;
- average age at application – 37;
- are not likely to have children – 74% do not have children – but 13% were already fostering the child<sup>25</sup>.

3.102 There is some evidence that single applicants and older applicants are more likely to be turned down. A study of applications to VAAs revealed that of rejected applicants 18% were single whilst single applicants accounted for only 6% of all successful applicants.<sup>26</sup> In the same study, the average age of rejected couples was a few years older than those who had been accepted.

#### What makes for a successful adopter?

3.103 There is little research available which informs the debate on what makes good adopters, the specific skills they need and whether these are significantly different from generally recognised parenting skills. Some factors have been identified from studies as being important for successful placements<sup>27</sup>:

- the new family has a child close in age to the child to be placed;
- adopters enjoy a challenge and enjoy spending time with children;
- the ability to understand and empathise with the child's early history.

3.104 Some studies show that experienced and older parents are more successful; others show high success rates with younger childless couples. Some studies also indicate

that a very wide range of people – either single or couples – who have experienced difficulties or disabilities in their early lives, can be successful adopters. Whilst the study evidence is not extensive, it does not suggest that there are any overriding factors which should exclude any particular group of people.

3.105 Apart from the statutory restrictions due to certain categories of offences, a small sample survey of LAs, specially commissioned for this study<sup>28</sup>, found a number of common criteria being used by LAs:

- applicants should be fit and able to care for the child throughout their childhood;
- any marital or cohabiting relationship was of sufficient length to demonstrate stability and a minimum of two to four years was often given as a requirement;
- children of less than two/three years of age or children with respiratory problems, would not be placed with people who smoke;
- applicants should not be undergoing fertility treatment at the same time as applying to adopt a child;
- applicants must live within the authority unless the application was for a particular child or children. (This illustrates LAs current local focus on recruitment, and the lack of perception of recruiting to provide a national pool of resources.)

Contrary to some popular misconceptions, there is no overall age limit in operation, nor are there *overall* blanket exclusions on criteria such as weight or smoking habits.

3.106 While there has been extensive media interest sparked by a relatively small number of instances, it is difficult to find

24 *ibid*, BAAF. 91% were couples, of these 84% were white. A separate BAAF study of LAs found that 94% were couples of which 93% were white.

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26 Children and Families in the Voluntary Sector, BAAF

27 As reported in *What Works in Family Placement*, C.Sellick and J.Thoburn, (1996) Barnardos.

28 Kate Cooke, Adoption Services, unpublished report for the PIU, May 2000.



consistent evidence about the degree to which unjustified discrimination applies. The team heard various examples of recommendations that appeared to have no justifiable basis. These concerned the characteristics of the adopters lifestyle, health and dietary habits. The latter issues arose on the advice of medical experts on the panel rather than social workers. In the case of age, subjective criteria do apply for those wishing to adopt very young children as the waiting lists are usually long. In particular the age criterion will affect women who leave starting a family until later, only to find they are unable to have children. However, the lack of clarity and transparency in both the criteria and their application contributes to creating a climate of suspicion and mistrust which deters prospective adopters.

### **Matching of adopters and children: practice and problems**

3.107 Matches between children who have adoption as their plan and approved adopters are recommended by the child's social worker and the adoption agency. The match then goes before the Local Authority's Adoption Panel for recommendation to the agency decision maker (usually a senior manager/director) for final approval.

#### **Time taken and delays in matching**

3.108 The average time taken between approval and placement of a child has been identified by one study as 11 months<sup>29</sup>. More detailed information by age is set out in Annex 6. Delays and drift can occur at this stage both in terms of the lack of suitable adopters and by an insistence on finding the "perfect" rather than the "good enough" match. Again, we heard anecdotal evidence of turning down adopters who were

"suitable" whilst waiting for "something better" to come along.

3.109 However, the delays vary and tend to depend on the characteristics of particular children where it is recognised that they are more difficult to place: older boys, older black and mixed race children and sibling groups. Whilst ethnicity is a factor (see paragraph 3.113 below) in causing delays other factors have been found to be more significant in affecting the time waiting between referral and placement; children with special behavioural difficulties and the child's age at first referral<sup>30</sup>.

#### **Existing national mechanisms for matching**

3.110 At national level there are several publications which aim specifically to match adopters to specific children, including "Be My Parent", "Focus on Fives", both published by BAAF, and publications by Adoption UK<sup>31</sup>. "Be My Parent" and "Focus on Fives" contain photos and descriptions of the children and the parents they are looking for. "Be My Parent" is circulated to SSDs, VAAs and adoptive parents' groups. The purpose is to bring forward specific enquiries from readers who may be interested in offering permanent placements to featured children and to act as a general recruitment tool. It features over 400 children a year.

3.111 BAAF*Link* is a computerised data base of families and children referred by LAs and VAAs throughout the UK. It categorises children and families according to a range of factors including gender, age, ethnicity, religion, disability and locality. On receipt of details of children to be matched, BAAF*Link* provides 6 possibilities to the child's social worker to be discussed and followed up. In 1999, it dealt with approximately 900 children and 400 families.

29 Children and Families in the Voluntary Sector, BAAF

30 Children and Families in the Voluntary Sector, BAAF

31 In addition the National Foster Care Association run their own profiling service comprising a publication every eight weeks containing children of all ages available for permanent placement. This is circulated to 27,000 foster carers.



3.112 Despite the fact that LAs are encouraged to refer to BAAF*Link* through LAC(98)20 and the ADSS, there are problems with this service. Contributors identified these as:

- insufficient adopters on the database – many LAs do not put their adopters on the database in the hope of waiting to place a local child with them;
- the information is out-of-date by the time the LAs receive possible matches;
- meaning that the proposed matches which result are often viewed as poor;
- lack of a consultancy aspect providing advice on the possible matches generated.

### Transracial placements

3.113 The proportion of children for whom adoption is the plan who are from ethnic minority backgrounds is broadly equivalent to the proportion of ethnic minority children in care<sup>32</sup>. However, in terms of placing these children a BAAF study<sup>33</sup> found that delays were greater for children from minority ethnic origins – for black children the time between ‘best interest’ decision and matching was on average 11 months, compared to 7 months for those of mixed parentage and 6 months in the case of white children.

3.114 The practice of transracial placements remains a sensitive area. Most agencies we spoke to were operating on the principle of same race placements as an ideal but accepting suitable transracial placements if these were not available. A minority of social workers told us they did not make transracial placements because “they did not work” i.e. broke down. However, the evidence shown in Chapter 2 does not support this conclusion.

3.115 VAAs play an important role in transracial placements<sup>34</sup>; 18% of placements arranged by VAAs involve non-white children<sup>35</sup>. The same BAAF study of VAAs shows that the extent of transracial placements is relatively small; only 14% of all children from minority ethnic-origin and mixed parentage backgrounds had been placed with white adoptive families. Evidence from the BAAF study of SSDs suggests a slightly higher figure of 20%<sup>36</sup>.

3.116 The main problem in this area, driving the delay in placement, is the shortage of adopters from ethnic minorities appropriate for the children needing permanent placement. In practice social workers need to balance the time taken in finding the ‘right’ match against the downside of delay but the evidence is that there is no consistent or agreed principle on how to achieve the right balance.

### Stage Five: Support after adoption

3.117 Given the needs of looked after children adopted, and the special nature of adoption itself, adopted children, adoptive families and birth families can all require continuing support once adoption has taken place. However, current arrangements in this area appear to be inadequate and should be reviewed. There are four main aspects to support for families after adoption:

- adoption allowances;
- post-adoption support services;
- access to birth records; and
- the management of contact with birth families.

32 DH analysis of LA Quality Projects Management Action Plans

33 Report on BAAF Adoption Survey 1998/99 – Selected Preliminary Findings

34 Some VAAs have a high proportion of ethnic minority staff. Children and Families in the Voluntary Sector, BAAF

35 Children and Families in the Voluntary Sector, BAAF

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The problems associated with each of these aspects is set out below.

### **Adoption allowances**

3.118 Adoption allowances were introduced to allow children to be adopted when they could not be readily adopted because of a financial obstacle. Many of these children had special needs or were part of a sibling group and this meant that the cost of caring for them was higher than for a single child or one without special needs. The allowance was intended as a contribution towards the additional cost of caring for such children.

3.119 Under the Adoption Allowance Regulations Local Authorities are required to consider whether an allowance may be paid, to supply information to adopters about allowances, to give them notice of their proposed decisions and to hear any representations from them. The Regulations allow them to pay an allowance where:

- the agency has accepted the adoption panel's recommendation that adoption is in the best interest of the child and would not be practicable without an allowance; and
- one or more of a number of circumstances apply including the need to place a large sibling group together and mental or physical disability or emotional or behavioural difficulties on the part of the child requiring expenditure now or likely to lead to expenditure in the future.

The Guidance on the regulations makes clear that allowances will be the exception and not the norm, which reflects the philosophy current at the time when adoption allowances were first devised in the 1970s.

3.120 There is little information available on how many children qualify for adoption allowances but one study reported that

around 40% of adoptive placements receive allowances.

### **Adoption allowances: problems and barriers**

3.121 There is no data collected centrally on the number of adopters who receive adoption allowances, the levels of payment and the reason for the payment. Individual Local Authorities may hold this information but practice between them varies enormously. This and the relative scarcity of research in this area mean that it is very difficult to gauge the precise effect that payment of different levels of allowance or for different reasons would have on the number of children adopted or on the disruption rates of those that are.

3.122 Our analysis and discussions with adopters and adoption practitioners have, however, identified some problems with the current arrangements.

- adopters and practitioners in the adoption world are keenly aware of the lack of consistency between Local Authorities in the levels of payment available, with some being set so low as to be virtually non-existent while others are more generous, and in determining when payments should start and how long they should continue. Some VAAs, out of concern for their adoptive parents, are reluctant to steer them towards less generous authorities and will "shop around" among the more generous local authorities in seeking placements;
- the interaction between adoption allowances and foster care allowances. Adoption allowances will inevitably tend to be lower than foster care allowances. This is because foster carers are paid the full cost of maintenance for the children they care for including an element for items such as birthday and

Christmas presents and holidays. Many also receive an element of remuneration. The actual rate of foster care allowances varies significantly across the country.

Adoption allowances are, however, designed to cover the needs rather than the ordinary maintenance costs of the child – and then only if the parents cannot meet the cost themselves. The relationship between them should be reviewed taking full account of the wider issues of placement availability for children.

The social security rules for the treatment of foster care and adoption allowances in the context of income support are complex. These complexities have the potential to mislead and they need to be understood by foster carers, potential adopters and LAs alike in order that all decisions are made on a sound and well-informed basis<sup>37</sup>;

- the regulations provide for an allowance only where a specific need of the child has been identified. This causes difficulties in some cases where the prospective adopter is simply unable to proceed with the adoption without financial assistance. A typical case would be where an adopter needed to move to a larger property before the Local Authority could place the child;
- the need for an allowance to be agreed *prior* to the making of an adoption order rules out the possibility that unforeseen problems may develop later on as a result of the child's early experiences. This does not make sense in the context of children adopted from care. For example, a baby who was abused pre-verbally could develop behaviour problems which result in significant expenditure for the adopter later on. There is provision to agree an allowance 'in principle' which would allow for payment to be made later on but this only applies where it is known that there is a high risk that a child would develop an illness or disability. Some Local Authorities use this provision, or make 'nil' assessments which would then be reviewed, to get around this problem;
- some Adoption Panel members and social workers<sup>38</sup> have expressed concern that Local Authority financial constraints influence the decision-making for individual children. Cases have been reported to DH where the Panel has recommended an award but this has subsequently not been paid because of budget constraints;
- most Local Authorities means test their adoption allowances as they are required to as part of demonstrating that the adoption would not be practicable without the payment. Again systems of means testing vary, and thresholds vary enormously between authorities. Some authorities have no clear idea of what should be taken into account in the means test and are concerned the decisions may be made in a fairly ad hoc way by people who are not qualified or experienced in such assessments;
- not all Local Authorities are advising adopters of the potential availability of adoption allowances as they are required to do by the Adoption Act regulations.

37 For income support, the entire foster care allowance is disregarded compared to only that part of the adoption allowance which relates to Income Support Child Allowance. Whereas foster carers are not entitled to Child Benefit, adopters are (although this is then deducted from their Income Support). Additionally adopters may possibly receive other grants from the adoption agency, which may not have an effect on Income Support e.g. lump sums to purchase special equipment under Sc 17 of the Children Act 1989. If they are receiving Income Support, they may also be entitled a Sure Start Maternity Grant (currently £200 but due to rise to £300 in the autumn), although this is currently restrictive and outdated in only applying when children less than one year old are adopted.

38 DH *Quality Protects: Consultation document on the review of the Adoption Allowance Scheme*



### **Post-Adoption support**

3.123 The Adoption Act 1976 placed local authorities under a duty to provide 'a service designed to meet the needs in relation to adoption of:

- children who have been or may be adopted;
- parents and guardians of such children;
- persons who have been adopted as a child.'

3.124 The Adoption Act does not specify what should be provided in terms of post adoption support. Some interpret the reference to "child" in the provision for "children who have been or may be adopted" to mean that support should not technically be provided for over 18s who have been adopted. A government statement in 1993<sup>39</sup> did not clarify this ambiguity when it pronounced that its aim was no more than to 'encourage' post adoption support, and then only to 'new families'. As a result many Local Authorities have confined arrangements to the provision of adoption allowances and counselling only.

#### **Post adoption support: problems and barriers**

3.125 Although Local Authorities have a duty to provide a post-adoption service, there is little clarity about what this should entail. Consequently support arrangements are inconsistent and most of what exists continues to be based upon a framework put in place in the 1970s.

3.126 During the course of the team's consultations, we heard from adoptive parents who had encountered difficulties in obtaining help following adoption. Research evidence shows that this is the element of the process that adopters find least

satisfactory<sup>40</sup>. In many cases adopters who need help are required to seek support from front line Child Protection teams and compete with families in the child protection system with the result that they will often not meet the eligibility criteria for a service.

3.127 The range of help required can be extremely varied, ranging from advice and counselling on how to deal with specific problems concerning the integration of the child within the family to major problems arising from the child's mental and physical state and involving health and education services. The service which a Local Authority is able to provide may therefore be inappropriate, as social workers do not always have the skills or expertise to provide the required response.

3.128 In other Local Authorities adoption social workers continue to provide informal support by setting up groups or giving individual counselling where this is necessary and acting as advocate on behalf of the adoptive family for education or health services. This arrangement is also not ideal because, although the social workers have the skills and understanding, they have to fit this activity in with their priority task of recruiting new adopters and supporting adopters post placement and pre-order.

3.129 The lack of consistent support across the country is a disincentive to Local Authorities placing beyond their borders. This contributes to delay and drift within the adoption process. Many social workers recount difficulties they already experience in supporting damaged children and struggling families that other agencies have placed without any reciprocal arrangements.

39 DH Adoption: The Future

40 Parker (1999) *Adoption Now: Messages from research* HMSO pp73-94.



3.130 Voluntary Adoption Agencies play an important part in the provision of post adoption support. Nearly all VAAs offer support networks and provide a wide variety of support including workshops, therapeutic and social groups and counselling of individuals<sup>41</sup>. Some Local Authorities are contracting with voluntary adoption agencies to provide post-adoption support to adoptive families in their area. Additionally where an LA places a child with a VAA, a standard one-sixth of the interagency fee is charged to cover a menu of core services which are available to adoptive families and children indefinitely.

3.131 Often health provision has not kept pace with the needs of looked after children generally and adopted children in particular. Families tend to get referred to CAMHS<sup>42</sup> but often this service is unable to help in dealing with the specific specialist attachment problems or damage that has occurred pre-verbally. There are a few specialist clinics but these are very expensive.

3.132 Some consultees considered that arranging placements in other authorities could be hindered by the difficulty in finding educational places. In practice, securing educational places across LA boundaries is not always guaranteed and the effort involved in arranging such places can act as a disincentive to place outside the originating LA.

3.133 The recent DH/DfEE "*Guidance on the Education of Children and Young people in Public Care*" supported by Circular, LAC(2000)13, aims to reduce the chances of children in care being left for long periods without a school place. It requires Local Authorities to secure an educational place as one of the main criteria in identifying a suitable care (foster and residential)

placement. It has been interpreted as potentially delaying adoptive placements where an educational placement in another authority cannot be found.

3.134 It is clear that the failure for authorities to secure educational places for any child in the care of the authority has the potential to undermine placement stability. Key measures set out in the guidance and the principles underpinning the guidance are all intended to enhance placement stability for all children in the care of the authority by ensuring that LAs uphold children's entitlement to full-time education. The guidance emphasises the need for co-operation and good working relationships between LA education and social service departments which will equally protect and support children placed for adoption.

3.135 Adopters also relate stories which illustrate the insensitivity of schools when an adopted child is admitted e.g. not spotting that element of the curriculum, such as projects on family trees, which might need to be carefully addressed. The guidance referred to above addresses the need for schools to be sensitive to children's family circumstances.

### *Access to birth records*

3.136 In the past it was thought best for all concerned that an adopted child's break with his/her birth family should be total and parents were generally told that a child would not have access to his/her birth record. The Adoption Act 1976 reflected increased understanding of the wishes and needs of adopted people and recognised that, although adoption makes a child a full member of a new family, information about his/her origins may still be important.

41 Consortium of Voluntary Adoption Agencies Annual Statistics 1998-1999

42 Children and Adolescent Mental Health Services



3.137 The Children Act 1989 amended S.51 of the 1976 Act to extend the arrangements for people to obtain information about their birth records to include a requirement that people adopted before 12 November 1975 should attend a counselling interview before being given information. People adopted after that date are not required to be counselled but such services should be made available to them. Adoptees may request this service from the Office of National Statistics or a local authority.

3.138 Local authorities generally consider the provision of S.51 counselling to adopted adults who wish to have access to their birth records to be low priority and there is a growing trend to contract with Voluntary Adoption Agencies to provide it on their behalf. Where local authorities continue to provide the service themselves it is usually part of the responsibilities of adoption social workers.

3.139 Concern has also been expressed about the way in which courts have exercised their discretion about whether they will give an adopted adult access to their adoption file. The difficulty for courts is that files will sometimes contain very sensitive information – for example where an adoption has followed a rape – and they are reluctant to release them without counselling and support in place. Practice is variable and there is a lack of consistent guidance.

### *Contact with birth families*

3.140 Contact Orders were introduced under S.8 of the Children Act 1989, which stipulated that a S.8 Order could be sought in any family proceedings including those under the Adoption Act 1976. Such an Order requires the person with whom a child lives, or is to live, to allow the child to visit or stay with the person named in the order, or for

that person and the child otherwise to have contact with each other.

3.141 Adoption with contact has become much more common. There has been little research into the extent but it is believed that at least 70% of adopted children have some form of contact with members of their birth families. Contact may be direct, involving meetings and phone calls or indirect involving the exchange of occasional letters or information. Research evidence on the impact of contact on the outcomes of adoption is at present mixed and inconclusive<sup>43</sup>.

3.142 Direct contact – courts are reported to be reluctant to make Contact Orders, which often involve direct contact, in adoption proceedings because there is no capacity to enforce them post adoption. However, according to a research undertaken by Parents for Children<sup>44</sup>, around 20% of adopted children are likely to have direct contact with birth parents or siblings in a separate adoptive home and 15% with wider family.

3.143 There is some concern that the prospect of direct contact can adversely impact upon whether a child can be adopted at all. In other cases the birth relative may have a history of not being able to work with the LA, foster carers, the Local Education Authorities and other agencies and yet there will be a belief that they will work with the adoptive family.

3.144 This has given rise to some concern that social workers are setting up contact in the interests of the birth family rather than the long term interests of the child or, that they may be using contact as a negotiating tool with the birth family in the hope that this would avoid a contested adoption hearing. Contact may present a particular

43 Edwina Brocklesby, unpublished research for "Parents for Children", Parker op cit pp45-58

44 Edwina Brocklesby op cit



area of tension between social workers and GALs with the latter being seen anecdotally as particularly keen to promote direct contact.

3.145 Indirect contact – around 50% of children are estimated to have indirect contact<sup>45</sup>. These arrangements are not homogenous: there will be one and two way arrangements with various combinations of birth parents and family. There is concern that decisions about letterbox contact for older children are made, often on snapshot information at one point in time, with little attempt to define objectives or the support that will be necessary to achieve those objectives. The consequences for ‘drop out’ for each party has not been considered. All the indications are that both birth parents and adopters may need support in making even letterbox contact work properly.

3.146 The Parents for Children<sup>46</sup> research also identifies that all the parties felt that there were links between letterbox and direct contact with, in general terms, one leading

to the other. Where there is more than one adopted child in place but they are not siblings it can give rise to tensions if there are disparate contact arrangements.

3.147 The management of contact arrangements has developed on an ad hoc arrangement over the years and many LA's depend upon the collective memories of social workers. There is a wide range of practice in relation to issues such as confidentiality of mail (i.e. whether letters should be read before passing them on) to the formal recording of contact arrangements. Most social workers do not have sufficient skills or knowledge to be able to provide guidance to birth parents about what might be the most positive way to communicate. Adoptive parents with very damaged children live with the anxiety that the child might experience a cessation of contact as a further rejection. Few Local Authorities have review systems in place to ensure that the contact arrangements are continuing to meet the needs of children.

45 ibid

46 ibid



## *Conclusions: Key problems and barriers*

### Identifying adoption as an option for looked after children

#### Local Authorities

- adoption and permanence not considered early enough for enough children
- lack of clarity on policies for permanence
- lack of expertise or guidance eg. on rehabilitation, on adoption process
- workforce problems
- lack of grip on progress leading to delay and drift

#### Courts

- delays in listing
- lack of shared understanding between courts, GALs and SSDs on what works for children
- duplication of process esp. between GALs and SSDs
- inconsistency and lack of clarity in interpretation
- lack of grip on progress leading to delay and lengthy cases

#### Legal framework

- basis of planning for adoption including consistency of legislation

### Delivering the plan for adoption

#### Local Authorities

- lack of grip on progress leading to delay and drift
- delays in identifying adopters
- delays with Adoption Panels
- delay in completing reports
- mixed quality of social work
- inconsistent use of procedure

#### Courts

- lack of grip on progress in ensuring cases progress
- delay in securing court time
- delays in resolving Legal Aid
- inconsistent practice and interpretation
- unrealistic expectations of what can be delivered

#### Legal framework

- unsatisfactory mechanisms for handling consent and placement



## *Conclusions: Key problems and barriers (cont.)*

### Recruiting, assessing and matching adopters

#### Recruitment

- not enough adopters recruited particular shortage from ethnic minorities
- recruitment efforts by LAs variable, small scale and locally focused
- ‘front of house’ responsiveness can be poor
- interagency fee does not function correctly
- no national perspective on recruitment

#### Assessment

- practice variable in terms of how adopters treated, valued and prepared
- subject to delays including availability of information groups, and Panels and speed of checks
- lack of clarity and transparency of assessment criteria produces distrust and deters prospective adopters

#### Matching

- delays
- lack of comprehensive national infrastructure
- lack of clear criteria or guidance on matching issues

### Support after adoption

#### Adoption allowances

- inconsistent across LAs
- inflexible – may only be provided where specific needs identified, may only be agreed prior to adoption
- concerns about the interaction between adoption and fostercare allowances

#### Post adoption support

- patchy and inconsistent
- deters LAs from placing outside their area
- health and education services not focused on needs of adoptive families

#### Access to birth records

- inconsistent service from LAs
- inconsistent practice in courts

#### Contact with birth families

- inconsistent practice in how this is handled, and the support provided
- lack of expertise in LAs

## 4. THE NEW APPROACH

### Summary

The current system is too often not meeting the needs of looked after children. Too few are enjoying the benefits of adoption and real permanence.

This shortfall in performance is the result of a large number of problems and barriers across the system as it currently operates.

Current policy initiatives will not address all of these problems.

To tackle these problems the Government should:

- set out a new approach to adoption and permanence that puts the needs of the child at the centre of the process;
- set itself a challenging target for increasing adoption;
- achieve change by reforming, resourcing and driving the whole system to deliver improved performance.

### The Key Problems

4.1 The previous chapters surveyed evidence on the current use of adoption for looked after children, its effectiveness and the performance of the current system for managing care and adoption. The central message is that, while there are instances of excellent practice:

- too often the current system is not delivering the best for children and as a consequence is also not serving the needs of adopters and birth families as well as it could.

4.2 There are three main ways in which the needs of looked after children are not consistently met. Too often:

- decisions about how to provide a secure, stable and permanent family are not addressed early enough, focused clearly enough or taken swiftly enough;
- where plans for permanence are made, they are not delivered quickly enough, bearing in mind the appropriate timetable for the child;
- services do not provide the support families need throughout the process of securing and supporting adoption and permanence.

As a consequence, too few looked after children are enjoying the benefits of real permanency.

## The Causes

4.3 Chapter 3 identified a large number of problems and barriers throughout the current system that contribute to this shortfall in performance. Several key themes come through:

- lack of clarity in the policy framework for permanence and adoption and the law that underpins it, on how the process should work, how long it should take, on standards and best practice, and what is expected of LAs and courts;
- lack of consistency on a geographical basis, and in the performance of organisations. There are no common standards of service and no effective national structures governing the adoption of children, the treatment of adopters or support to families;
- lack of grip. LA planning and implementation and the progress of court cases are both subject to drift and delay. Information on performance is patchy, inadequate and underused. There is a lack of external monitoring, review and stimulus to ensure timely progress;
- duplication and fragmentation. The interaction between LAs and the courts is prone to duplication and delay. Adoption activity is pursued by some individual LAs on a "cottage industry" basis, with patchy local co-operation. A comprehensive national structure is lacking;
- shortfalls. There are shortages of adopters, and of trained and experienced social workers. Lack of court time leads to delay, as do problems in accessing Panels;

all contributing to...

- delay throughout the system.

## What the Government could do

4.4 The Government is already taking action to improve children's services provided by Local Authorities through Quality Protects (Box 4.1).

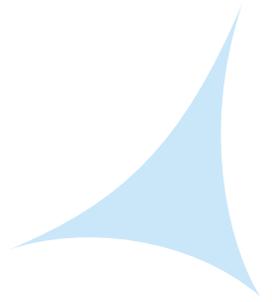
### *Box 4.1: Quality Protects*

The Quality Protects programme is a key part of the Government's wider strategy for tackling social exclusion and childhood poverty. It focuses on working with some of the most disadvantaged and vulnerable children in our society. Those children looked after by councils; in the child protection system; and other children in need receiving support from social services departments. It complements and reinforces other key programmes including: Sure Start; Youth Offending Teams; Education Action Zones; Health Improvement Programmes; and programmes to support families.

Quality Protects is backed by funding of £375m between 1998/9 and 2001/02. One of the key objectives of Quality Protects is to promote placement choice including increasing the emphasis on adoption. There is evidence that this is delivering some improvement. The number of looked after children adopted increase by 18% between 1997 and 1999, and LAs are planning further increases in the future<sup>1</sup>. There is also evidence of increased investment in adoption and permanence teams, to recruit more adopters and better manage the implementation of plans. What we heard during the study confirmed this picture of somewhat promising early progress.

4.5 However, the Quality Protects investment programme will not succeed in delivering the improvement in performance that this study indicates is required. The

1 DH analysis of LA Quality Protects Management Action Plans. See Annex 7



problems and barriers set out in Chapter 3 and summarised in para 4.2 are deep seated, in some cases structural, and extend beyond social services. To realise the full potential for improvement over the medium and long term will require more fundamental action.

4.6 A step change in performance is required across the whole system to ensure that the needs of looked after children are properly met. A whole systems problem requires whole systems solutions. There is no magic bullet or simplistic single quick fix. What is needed is a wide range of interventions targeted on tackling the causes of poor performance.

4.7 In order to succeed, these interventions would best be drawn together into a strong and coherent programme that could be clearly understood by, and communicated to, all the key stakeholders – Local Authorities, the courts, looked after children, their families, adopters and the public.

### **Recommendation:**

The Government should consider a new approach that would:

- **set out a clear and coherent new approach** to policy on adoption and permanence;
- **aim high** – set itself a challenging target to back up the new approach and demonstrate its commitment;
- **drive change** – reform, resource and encourage the whole system to implement the new approach and deliver the improved level of performance.

## **The new approach**

4.8 The new approach to adoption and permanence should put the needs of the child at the centre of the process.

4.9 It should be built around a clearly articulated policy on promoting permanence for looked after children – providing a safe, stable and secure family which will give them lifelong support. Securing permanence should be the basis for Care Planning. Adoption should be seen as a key means of providing permanence within a full spectrum of options that starts with return to their birth family, as the clear first choice, but moves swiftly to delivering genuinely permanent alternatives when this is clearly not in prospect. Fostercare should be the transitional route to securing permanence. The whole process of planning, decision-making and implementation should be driven and shaped by the needs of the child and progress made according to timescales that reflect those needs.

4.10 The new approach must also reflect:

- the rights and interests of birth families;
- the value we place on the skills and commitment of those willing and suitable to adopt;
- the Government's commitment to support adopters to achieve a stable and loving homes.

## **Aiming high**

4.11 To back up the new approach, and demonstrate serious commitment to delivering it, the Government should set itself a target for delivering a substantial increase in the numbers of looked after children successfully adopted (and in other permanent placements).

4.12 In the time available for this study, we have not been able to establish what this target might be. Annex 7 explores this issue. Further modelling and analysis is needed before any such target can be set with confidence. We believe the information to inform this analysis is available, and that it



should be carried out as a matter of urgency, to inform the setting of a target later this year. It is important that the target focuses as far as is possible on successful outcomes.

**Recommendation 1:** the Government should set a target for increasing the use of adoption to provide successful permanent placements for children.

## Driving change

4.13 Implementing a new approach, delivering improved performance and meeting the target would require a comprehensive programme of action. The rest of this report sets out specific recommendations for action that Government should consider.

4.14 In order to deliver a system that better meets the needs of looked after children, the Government should consider taking action to:

- (i) attract, recruit, retain and support many more adopters nationally. The evidence demonstrates a wide variety of people can adopt successfully, but the range that currently comes forward is too narrow. Many are put off by fear of how they will be treated, or misconceptions of who can adopt and the sorts of children needing families. These fears need to be dispelled, a wider range of people attracted who are able to meet children's needs and better ways found of supporting them in doing so. Adopters need to be treated as a national resource. Expectations need to be transformed and a positive culture around adoption needs to be created, one in which children and parents feel valued and supported at every stage. Chapter 5 sets out options for how to do this;
- (ii) achieve a step change in Local Authority performance on adoption and permanence. They need to consider and plan actively for permanence earlier, for more children, and follow through and deliver more effectively. They need to reorganise so they can more effectively recruit, retain and support many more adopters. Chapter 6 sets out how this could happen;
- (iii) make the court system perform better. There are problems with effective working between LAs and the courts, and with the way courts handle both Care and Adoption Proceedings. There is too much delay, duplication and variability, too often at expense of the child. This causes anxiety and distress for birth families and adopters, and frustrates professionals. Chapter 7 sets out the steps that could be taken to reform the system so it better meets the needs and aspirations of children and others;
- (iv) change the law. The current adoption legislation is 25 years old. It is not consistent with the Children Act. That is a recipe for confusion and delay. New legal mechanisms are also needed to provide a full spectrum of options for permanence and to make the process of adoption more straightforward. Legislation would also be required to underpin several of the other recommendations in this report, including Local Authorities' ability both to work together to recruit and share adopters, their duty to make available proper post-adoption support. Chapter 8 describes the changes the Government could consider.

## 5. THE NEW APPROACH: RECRUITING AND SUPPORTING ADOPTERS

### Summary

The PIU recommendations are designed to overcome the lack of adopters - a significant obstacle in achieving more adoptions of children from care. More people need to be encouraged to come forward. To do that they need to have confidence that the system works fairly and a positive expectation that they will be judged on the skills they offer and are valued for these skills. The need for clear and consistent standards is central to achieving this. The recruitment process itself should be given a higher profile, be organised at national level and be open to widening the pool of eligible applicants.

The recommendations also reflect the need for support to adopters, their families and adoptees, at the time of the adoption and afterwards. This support is an integral part of the adoption process and vital in promoting successful outcomes.

5.1 This chapter sets out a series of recommendations designed to address the problems identified in Chapter 3.

### *A new Partnership Agreement with adopters*

5.2 **Recommendation 2:** The Government sets out a New Partnership with adopters. This would provide a framework for drawing together information for adopters on what they should expect from the assessment process, including an appeals procedure, through to the available support for adopted children and their families. This new agreement is fundamental in giving potential adopters confidence in the system, creating a positive expectation of the process and

a belief that they will be valued for their abilities and qualities as adoptive parents.

5.3 A key part of the agreement should be a set of new National Standards relating to the recruitment and assessment of adopters (recommendation 3). It should also contain information relating to the appeals procedures (recommendation 8) which would apply nationally. The agreement should also include information relating to post-adoption support (recommendations 18–40). The agreement should provide nationally consistent and coherent standards and practice. It could also be supported at local level if Social Services Departments wished to complement the national agreement with additional agency-specific commitments and service levels.



## *New National Standards*

### **5.4 Recommendation 3: development of new National Standards for the recruitment and assessment of adopters.**

A more open, transparent and consistent system for recruitment and assessment is needed. This will encourage potential adopters to come forward and give them confidence in a fair assessment process. As the team learnt from practitioners, the assessment process is a balance between exercising a judgement based on working closely with the families involved and operating criteria which are fair and objective. These issues will need to be considered carefully, including guidance on transracial aspects of placements. The development of National Standards should involve all key stakeholders and should be informed by any best practice identified by the new Adoption and Permanency Task Force (recommendation 57).

## *The Assessment Process*

**5.5 Recommendation 4:** new National Standards should include appropriate evidence-based criteria for assessment of adopters.

**5.6 Recommendation 5:** the assessment process itself should be reviewed to promote best practice, innovative approaches and reconsider the BAAF form F and see if any lessons could be learnt from recruitment activities in other fields e.g. employment.

**5.7 Recommendation 6:** the assessment for “second time round” adopters should be streamlined with some accompanying safeguards regarding significant changes in circumstances and the length of time since the first assessment. A similar situation occurs for foster carers who wish to adopt a child as they have already been through the assessment

process. In some cases foster carers were actively discouraged from applying by the LAs who were protective over their supplies of foster carers. We recommend that these arrangements also apply to foster carers who wish to adopt.

**5.8** Several causes of delay were identified including the operation of the Panel (paragraph 3.95) and police checks. A recommendation concerning the operation and composition of panels is set out in chapter 6. **Recommendation 7:** delays in undertaking police checks should be investigated. A sample of police forces should be examined to track the process and where delays are occurring and why there are discrepancies between the official figures and those reported by some LAs. The results should be disseminated.

## *An Appeals Mechanism*

**5.9 Recommendation 8:** appeals mechanisms for potential adopters should be put in place in all LAs. Checks in the operation of the recruitment and assessment process need to be strengthened to underpin the new National Standards and give adopters confidence that they will be considered fairly. It is recommended that before the adoption panel, SSDs should have in place reporting mechanisms within the organisation which trigger an invitation from senior managers to discuss the outcome/reasons for dropping out before reaching the panel and offer help and guidance for further action. After the adoption panel, SSDs should be required to have an appeals procedure in place whereby applicants who have been rejected by the LA panel can be reviewed by a panel in a neighbouring area. If this second opinion panel overturns the decision of the first, they should be able to place children with the adopters without compensating the original LA.



### *Immediate Action to Tackle Backlogs*

5.10 **Recommendation 9:** there should be a rapid intensive scrutiny of the current mismatch recorded between children waiting and approved adopters. Given that 2,400 children and 1,300 adopters are reported as waiting (paragraph 3.70), even a 10% success rate would generate a further 240 placements for adoption. The new Adoption and Permanency Taskforce could play a role here (recommendation 57).

5.11 **Recommendation 10:** the Task Force should also advise on setting up contracts with voluntary agencies to recruit adoptive parents in the most-needed groups, for example, more black and ethnic minority adopters, those with an interest in taking sibling groups. Further consideration should be given to longer term funding at national level for on-going recruitment for particular groups of adopters where the greatest shortfall has been identified.

### *A new National Register and matching service*

5.10 Currently the pool of approved adopters is not shared on a national basis which leads to delay in linking adopters and children. The study found little support for a national recruitment agency, but there was a good deal of support for a database for matching children and adopters. A national level database would raise the profile of recruitment, enhance co-ordination and should be an invaluable tool for sharing information. Above all it should ensure improvements in the matching process and avoid unnecessary delay.

5.11 **Recommendation 11:** a new National Adoption Register should be set up. This recommendation is for a register for England but it would be desirable to extend the model to become UK-wide.

The Register would contain information on approved adopters and children with adoption as the plan. Its main role would be to provide a national infrastructure for speeding up the process of matching. The database could also be used as a monitoring tool by recording the time taken from “best interest” decision to match to support recommendations concerning timescales (recommendation 52). Adoption agencies should be asked to voluntarily contribute to it. The Department of Health should be aiming to tender in the Autumn for the operation of the register.

5.12 To work effectively it would require LAs to contribute information on children recommended for adoption and approved adopters and to keep this information up-to-date. This might require statutory underpinning. **Recommendation 12:** consideration is given to legislation to underpin the long-term effectiveness of the register.

### *Raising the profile of recruitment and increasing the pool*

5.13 It is clear from our consultations (and general belief within the profession) that there is potential to raise the number of adoptions through increased and better developed recruitment activity. The need to tap into every available source and to bring in as many people as possible is underlined by the fact that the nature of adoption itself has changed significantly.

5.14 **Recommendation 13:** National Adoption Week is strongly supported by Government. The Department of Health is already in discussions with BAAF about this year’s Adoption Week at the beginning of October. The event should be evaluated and the response by LAs monitored. Dates should be ear-marked for a further campaign in 2001 when LA capacity to deal with expressions of interest increased.



5.15 The study has identified concerns with “front of house” issues in Local Authorities.

**Recommendation 14:** a ‘mystery shopping’ exercise is conducted to assess the effectiveness of front-of-house performance in a sample of SSDs and to make recommendations for improvements as soon as possible. SSDs should be fully prepared for National Adoption Week and it is important that all enquiries are welcomed and dealt with efficiently.

5.16 The team heard a consistent view that the need to raise the profile of adoption and attract new adopters was fundamental to increasing the use of adoption for looked after children. Events such as National Adoption Week, and the capacity to handle the enquiries which it generates, are key to making this change.

5.17 **Recommendation 15:** more single people are encouraged to apply as adopters and valued for the skills and experience they have to offer. Research has shown that single adopters, who can currently legally adopt, can provide successful placements<sup>1</sup>. The positive impact on children of one permanent and consistent adult figure was a strong message which the team heard during the study. In some cases, a single adult figure may well be the preferred placement for some children who may already come from established single parent backgrounds. This could be an important factor for children from ethnic minorities and there is evidence that a higher proportion of single people applying to adopt are from ethnic minorities<sup>2</sup>. In these cases the children could also benefit from an extended network of family members.

### *Increasing the capacity*

5.18 The study identified problems with both the capacity and quality of Local

Authority recruitment work. Often Voluntary Adoption Agencies were found to perform better often because of their greater focus. Where appropriate, these strategies should be built on. **Recommendation 16:** alternative markets for recruitment should be encouraged by providing additional incentives to LAs that contract out part of their recruitment, possibly to VAAs.

5.19 In terms of recruitment activity only, the study considered whether there would be benefits of opening up the market to allow profit-making organisations to recruit adopters. There are many areas where the private sector has expertise in recruitment functions, notably in recruiting foster carers and more widely employment/job agencies. Some of the more innovative approaches used elsewhere might provide a basis for attracting the right people for adoption. A further advantage in encouraging new providers would be to fill in some of the geographical gaps that currently exist where there are few adoptions and no voluntary agencies.

5.20 **Recommendation 17:** consideration should be given to allowing private companies to recruit, assess and prepare potential adopters. This is not a recommendation for private adoption agencies. Companies should neither approve nor match adopters and children and should work directly under contract with agencies. Prospective adopters would continue to go before a LA or VAA Panel for approval and this would provide the same independent check on adopters as at present.

### *Post-Adoption Support*

5.21 The following recommendations cover the four elements of post-adoption adoption

1 Morag Owen, Single-person Adoption: For and Against, in Children and Society 1994 vol 8 and Novices, Old Hands and Professionals: Adoption by Single People, BAAF.

2 Children and Families in the Voluntary Sector, BAAF



support identified in paragraphs 3.123–147. The availability of support to adopters, their families and adoptees is an integral part of the adoption process and essential for successful outcomes. The availability of support should be part of the New Partnership with adopters and a number of elements should be subject to the new National Standards.

### **Adoption Allowances**

5.22 The problems which the team found concerning adoption allowances are set out in detail in paragraphs 3.118–122. A key conclusion from this work is the need to have a clear and consistent approach to the framework for granting allowances which encourages more people to adopt. This framework should be part of the new National Standards.

5.23 **Recommendation 18:** the resources available for supporting adoption and their distribution between different forms of support both need to be carefully considered. In particular the relationship between post-adoption support and proposals under development for improving support to Young People at Risk needs to be examined and understood.

5.24 **Recommendation 19:** the Government should review the framework for adoption allowances to address the issues identified in this report. Consultation is recommended with practitioners and others, not least because the paucity of data in this area means that the effect of changes will be difficult to predict.

5.25 **Recommendation 20:** significant weight should be given to achieving greater consistency in the application of adoption allowances. This would

require clarification of the intended purpose of adoption allowances and revision of the Adoption Allowance Regulations and Guidance. National Standards setting specific levels of payment should also be considered.

5.26 One approach to the disincentive which exists for foster carers to adopt, would be to try to ensure that children do not remain with foster carers for very long periods without agreeing with them the permanence plan. If the recommendations in this report are implemented this should not arise in future. **Recommendation 21:** if those foster carers are not able or prepared to adopt or provide permanence without full fostering allowances, this should be established at as early a stage as possible. In these cases, the right course may be for them to continue to provide genuine foster care services and for parents who are able to offer permanence for the child to be sought. The integration of the social security benefits system and foster and adoption allowances should be clearly understood.

5.27 **Recommendation 22:** consideration should be given to amending the regulations to provide for an allowance to be introduced after the adoption order is made.

5.28 **Recommendation 23:** guidance should be given to LAs on identifying and planning for adoption allowances and making forecasts of the sums needed.

5.29 **Recommendation 24:** Local Authorities should be reminded of their duty to provide information to all adopters concerning allowances. Such information should be included in Local Authorities' agreement with adopter's (recommendation 2).



5.30 **Recommendation 25:** eligibility for the Sure Start Maternity Grant which is available to adopters should be reviewed. The current criteria do not reflect the fact that 80% of adoptions are for children over the age of one.

### *Post-Adoption Support Services*

5.31 The estimated adoption breakdown statistic of 20% does not reflect the underlying problems and disruption to family life that adoption can entail. We heard that lack of the appropriate support and services can be a factor in the success or failure of a placement. The arguments for providing such support can be seen in the context of the overall costs to society (paragraph 2.18) in which the benefits and improved outcomes of adoption should be supported in order to avoid significant longer term cost implications.

5.32 **Recommendation 26:** the Government should review the availability of post adoption support for all children in adoptive placements and consider placing an explicit duty on Local Authorities who should be required to develop a multi-disciplinary strategy for delivering this service. This does not need to cut across mainstream support, in particular the current proposals in respect of Young People at Risk. What it should do is require Local Authorities to ensure that they have a plan for ensuring provision of support for this particular group of young people and their adoptive families.

5.33 The team heard a general view that support should be based on a coordinated multi-agency approach. **Recommendation 27:** support should be multi-disciplinary in providing the range of appropriate services which adopted children and their families are likely to need. This

approach relies on better coordination between the agencies currently providing such services and the assurance that children have access to the services which most appropriately meet their needs. These should, where possible, be closely linked with the wider public services approach to supporting children and their families.

5.34 **Recommendation 28:** post-adoption support arrangements should be covered in the new Children's Services Plans, currently the subject of consultation led by the Department of Health but involving all relevant government departments. Such plans should set out what health and education services – and the voluntary sector – will do to ensure the availability of post-adoption support in the area. It is for consideration whether at least some post-adoption support services should be coordinated through integrated family support arrangements.

5.35 **Recommendation 29:** consideration should be given to developing a system, similar to the Personal Education Plan<sup>3</sup>, which would allow a child's needs to be assessed and the level of support to be provided, to be agreed and understood by both the Local Authority and adopters. This should be reviewed regularly and the LAs should be under a duty to provide the support set out in the Statement. There should be avenues of appeal/complaint if parents consider that the Statement does not properly meet their child's needs or if the support is not being delivered. This should reassure adopters who are increasingly seeking guarantees from the LA about support, an anxiety that often delays submission of their application to adopt.

5.36 **Recommendation 30:** as part of developing their strategy, Local

3 Referred to in the Guidance On the Education of Children and Young people in Public Care



Authorities should consider with HAs whether CAMHS are providing appropriate services for looked after children and those placed for adoption.

5.37 **Recommendation 31:** the finding that post adoption services can be provided more effectively by a dedicated team and an identified budget should be tested further and, if confirmed, disseminated to Local Authorities.

5.38 **Recommendation 32:** involvement of DH and DfEE with respect to education for adopted children.

5.39 **Recommendation 33:** the case for adopters to be eligible to receive paid adoption leave should be considered. This reflects the likelihood that parents in paid employment will form part of the increased pool of potential adopters. In order to settle an adopted child into the family they may need to take time off work without financial anxiety<sup>5</sup>. This could be included in the government review looking at issues surrounding maternity pay and parental leave<sup>4</sup>.

### **Access to birth records**

5.40 At present the service provided is inconsistent. **Recommendation 34:** consideration should be given to how to provide some consistency in access by adopted adults to their court files, possibly by providing for local adoption agencies to take responsibility for disclosure.

5.41 At present only fully certified adoption agencies may provide counselling. This may restrict unduly the providers of this specialist service. **Recommendation 35:** consideration should be given to whether other bodies could be licensed to provide birth records counselling.

### **Contact**

5.42 **Recommendation 36:** consideration should be given to providing guidance, possibly as part of New National Standards, in relation to the appropriateness of direct and indirect contact and that criteria are developed for the management and review of direct contact and letterbox arrangements.

5.43 **Recommendation 37:** that the provision of contact or making arrangements for contact with another body for both birth parents and adopters involved in contact arrangements should form part of the Local Authority's duty to provide post adoption support.

5.44 **Recommendation 38:** contact support is subject to review as part of general post-adoption support arrangements.

5.45 **Recommendation 39:** joint training is provided for social workers, managers and GALs in relation to contact to develop shared understanding based on evidence of what works for children.

5.46 **Recommendation 40:** judicial training should cover the appropriateness or not of contact.

4 Employment law which came into force on 15 December 1999 entitles parents who have a baby or adopt a child to take 13 weeks unpaid parental leave. Parental leave can be taken any time up to the child's fifth birthday. In adoption cases it can be taken for five years after the child is first placed with the family, or until the child's 18th birthday whichever is the sooner. The DTI have announced that a Green Paper will be published in the autumn following a review of the issues surrounding maternity and parental leave.

## 6. THE NEW APPROACH: ACHIEVING A STEP CHANGE IN THE PERFORMANCE OF LOCAL AUTHORITIES

### Summary

The study concluded that adoption should remain a responsibility of Local Authorities but that significant improvements in LA performance should be sought. A wide range of recommendations for achieving this are set out. These cover the emphasis on permanence which should become integral to LAs policy, practice and organisation, improved monitoring and management to get a better grip on the process and the need for LAs to work together in recruiting more adopters. The Government should use a range of measures to ensure that these measures generate the required improvement in performance.

6.1 This chapter sets out the recommendations which the PIU team believe should be put in place in Local Authorities (LAs). These are needed in order to achieve a step change in performance in LAs carrying out their responsibilities for adoption.

#### *Taking adoption out of LA hands?*

6.2 The team considered whether an option for improving performance on permanency planning would be to transfer decision making to a dedicated agency. As far as identifying adoption as the suitable permanent option for a child in Local Authority care, the team concluded that this function could not sensibly be separated from the Local Authority's responsibility for removing the child from the family.

6.3 The team's view was that the overriding need was for continuity in a firmly child-centered and joined-up approach to all stages

of planning. This was reflected in the need for more emphasis on contingency planning while rehabilitation with the birth family is attempted. Only if responsibility for all child protection work were to move away from Local Authorities adoption would properly go with it, but that was a question which went far wider than the remit of this report.

6.4 The team also considered the possibility of creating a centralised agency for recruiting adopters only. This would have advantages in assessing the need for adopters at a national level, including matches from different parts of the country. Operating on a national level could also bring economic benefits of scale. However, the need to recruit and assess locally would entail contracting and co-ordinating LA social workers. This suggests a counter-economy compared to organisation on a regional basis.



6.5 **Recommendation 41:** responsibility for adoption should remain with LAs but LA performance will need to be raised in order to achieve the Government's policy objectives in relation to adoption.

### *LA policy*

6.6 The team did not find any evidence of a conscious anti-adoption culture in Local Authorities. Social workers are properly very committed to working to reunite looked after children with their families. Many also, however, expressed their frustration at barriers that got in the way of progress towards other options for permanence once it was clear to them that rehabilitation was no longer a realistic option.

6.7 The team identified a lack of policy practice and structures in Local Authorities that would guide, support and where necessary drive and monitor social workers in planning for permanence. **Recommendation 42:** the Government should set out a clear national policy on adoption and permanence and help LAs develop explicit policies which set out their approach to achieving permanence. This should include birth families and extended families. Satisfactory arrangements for disseminating it to social workers and training them in operating it should be put in place.

### *Practice*

6.8 **Recommendation 43:** social workers should address options for placement of children with extended family members early in the process but especially before initiating Care Proceedings or accommodating a child, possibly through family group conferences. This issue should be covered in new statutory standards for Local Authorities about planning for permanence. **Recommendation 44:** Department of Health (DH) should continue to pilot and evaluate Family

Group Conferences and should incorporate the findings in guidance to LAs at the earliest opportunity.

6.9 **Recommendation 45:** once a child is accommodated or Care Proceedings have begun, LA planning towards permanency should include consideration of contingency plans in the event of rehabilitation failing. This should include consideration of placement with extended family members and options for permanence outside the birth family. Systems need to be structured to ensure that this takes place, as at present in most cases it does not.

6.10 **Recommendation 46:** the plan for permanence should be documented at every LAC review and after 6 months if permanence outside the birth family is not the care plan, reasons should be recorded.

6.11 **Recommendation 47:** Social work training needs to address planning for permanence. It should be covered in the review of the DIPSW and DH should encourage its inclusion in the Child Care award. Individual LAs should ensure that it is covered in their own training. In addition DH should ensure that Local Authorities reflect it appropriately in their bids for the hypothecated children and families element of the Training Support Grant.

6.12 **Recommendation 48:** DH should also explore means of ensuring that a balanced and fair summary of research evidence on what works for children is disseminated. The team heard on several occasions social workers make statements or adopt positions that contradicted established research evidence.

6.13 **Recommendation 49:** DH should consider whether guidance should be issued on what constitutes robust

rehabilitation with birth families and whether it is possible to differentiate between different circumstances. This could build on the new Assessment Framework for Children in Need published in April this year to provide more explicit guidelines. President Clinton's Adoption 2000 programme identified in statute certain situations in which rehabilitation need not be attempted. It is likely that such legislation may fall foul of the Human Rights Act but it may be possible to set out some ground rules in guidance. This would also, however, have to have been endorsed by the courts in order to have any real effect.

### *Organisation and systems*

6.14 The team found clear, although not unequivocal, evidence among Local Authorities that those with teams dedicated to pursuing permanence for children (as opposed to child protection teams and family placement and adoption teams) found it easier to pursue options for non-birth family permanence at an early stage.

**Recommendation 50:** this finding should be tested further and if confirmed should be disseminated to LAs in guidance.

6.15 Although Quality Protects and monitoring of the circular LAC(98)20 have increased the amount and quality of information collected and reported by LAs, this excludes reporting comprehensive information on looked after children and plans for permanence to either members or central Government. **Recommendation 51:** LAs should be required to report on (i) the number of looked after children; (ii) their ages and durations in the looked after system (iii) the number with adoption as the plan – by age and date at which adoption identified as the plan.

6.16 DH is already considering a performance indicator to enable LAs to benchmark their performance on time taken from the decision of the adoption panel that adoption is in the best interest of the child to placing the child with adoptive parents.

**Recommendation 52:** benchmarks, underpinned by PIs, should be developed for this and the other key stages of the process.

### *Adoption Panels*

6.17 Delays caused by Adoption Panels have been identified. **Recommendation 53:** the composition and function of Adoption Panels should be reviewed to ensure they do not contribute to delay.

### *New National Standards*

6.18 **Recommendation 54:** new National Standards should be developed incorporating the best practice standards. These should include clear benchmark timescales for the key stages of the process of planning for and delivering permanence and adoption. LAs should be required to follow these, and their performance against them inspected and monitored. The National Standards should be developed rapidly, building on the current exercise commissioned by DH.

6.19 **Recommendation 55:** Government should make regulations under the Children Act, supplemented by guidance under s7 of the Social Services Act requiring LAs to implement key elements of the National Standards, especially to plan actively for permanence for looked after children.

6.20 **Recommendation 56:** DH should consider issuing an early circular addressing those issues which are appropriate for covering in guidance.



## ***A New Adoption and Permanency Taskforce***

6.21 This study has identified variable performance in LAs, and in the legal system.

**Recommendation 57:** a new multi-disciplinary Adoption and Permanency Taskforce should be set up to support improved performance across the whole system. The taskforce should:

- conduct an intensive visit programme, focussing on poor performing areas to look at the reasons for poor performance and agree plans for improvement;
- provide a source of whole systems expertise to feed into drawing up best practise guidelines and national standards;
- assist in conducting the scrutiny of the backlog (recommendation 9).

## ***Working together on a regional basis***

6.22 For some LAs it is clear that the number of adoptions handled each year is very small, making them no more than a 'cottage industry' – in 1999, around 30 authorities placed 3 or fewer children for adoption.<sup>7</sup> Even if these authorities were to increase the number of adoptions significantly, the numbers would still remain low. The idea of generating a critical mass for recruitment activity is already being explored by consortia arrangements. These should be able to achieve the advantages of economies of scale in organisation, advertising and even assessment (through holding joint information evenings, training). In addition these arrangements can potentially widen the pool of adopters by recognising that the characteristics of the population in one area could meet the needs of children in care in another.

6.23 **Recommendation 58:** further consideration should be given to the different ways in which LAs could

achieve a more efficient level of recruitment of adopters. There are a number of possible alternatives. LAs could contract-out the recruitment to other organisations, using the expertise of the VAAs or other LAs. An alternative would be to prescribe a minimum size for recruitment activity such as recruiting at least 50 adopters per year or covering an area of, say, 5 million population. A full regional model might require LAs to operate as combined regional recruitment agencies. The regions could be specified in a number of ways e.g. with Government Office regions or National Care Standards Bill regional structure.

6.24 **Recommendation 59:** consideration should be given to whether LAs should act regionally in recruiting by establishing "inter-authority agencies", developing co-ordinated strategies or contracting out recruitment. This will be an issue for consultation with LAs.

## ***Recruitment targets***

6.25 **Recommendation 60:** consideration should be given to setting recruitment targets for Local Authorities. LAs need not undertake these targets themselves but could contract-out or form collaborative arrangements with other LAs. This could be linked to year 3 of Quality Protects i.e. that Quality Protects in 2001 focuses on increasing recruitment activity.

## ***LA financial management***

6.26 The difficulties in operating the interagency fee were described in paragraphs 3.78–3.84. **Recommendation 61:** Department of Health commission research on unit costs of recruitment activity. This should form the basis of guidance to LAs on how to cost recruitment. In making the real costs of recruitment more transparent LAs will have an incentive to consider more carefully the



real financial implications of their decisions. **Recommendation 62:** consideration should be given to opening up the fee system by dispensing with a fixed fee and allowing agencies to undertake more negotiations. This will form a better basis for operating contracting-out/consortia arrangements as set out in recommendations 58 and 59.

6.27 The study found that reported problems with the interagency fee are closely linked with the financial structure and resource management within LAs. **Recommendation 63:** the Department of Health invites bids for demonstration projects to look at the advantages of operating pooled budgets for permanency. Such pooled budgets could include costs relating to all permanency options plus receipts from interagency fees from other LAs. This type of budget could promote a culture of “permanence” for children, give priority to identifying a budget to achieve this, tracking the financial implications of all permanency decisions and justifying the outcomes for children against cost. It should end the distortions that result from ring-fencing the interagency fee.

### *Ensuring improvements are made*

6.28 **Recommendation 64:** the Government should devise a strategy to ensure that it can generate the desired improvements in LA performance. The creation of new Performance Indicators (recommendation ?) and the greater availability of management information on looked after children should enable the government to effectively monitor the progress made by LAs. Authorities performing below benchmark levels should be identified and investigated. The Social Services Inspectorate already carries out a valuable role in highlighting deficiencies.

The Government should support the proposed New Adoption and Permanency Taskforce (recommendation 57) in its key role of transmitting best practice and improving the performances of Local Authorities.

6.29 **Recommendation 65:** the Government should be prepared to use its powers under Best Value where failure to deliver the desirable level of Childrens’ Services improvements has been identified. The spectrum of options for intervention could range from providing the Local Authority with intensive management advice and support, involving the Adoption and Permanency Taskforce where appropriate, to, in the most serious cases of failure, making alternative arrangements for the management and provision of the service.

## 7. MAKING THE COURT SYSTEM WORK BETTER

### Summary

The court system plays a vital role in two stages of the adoption process: supporting Care Planning in establishing adoption as the objective for the child, and delivering the plan for adoption. Our recommendations focus on reviewing and restructuring the court process to tackle delay and duplication and improve the quality and consistency of decision-making.

### Where the Courts need to improve

7.1 Chapter 3 identified three key problems with the court system as it currently operates in Care and Adoption Proceedings:

- delay and lack of grip;
- duplication of process;
- inconsistency in practice and interpretation, and in the degree of understanding with Local Authorities.

7.2 We recommend action in three main areas to tackle these problems:

- improvements to care proceedings to support better care planning and swifter implementation;
- changes to the arrangements for Guardians Ad Litem, to encourage closer working with LAs, aimed at reducing duplication and subsequent delay;
- improvements to Adoption Proceedings to tackle delay and improve the quality and consistency of decision-making.

### Improvements to care proceedings to support care planning

7.3 Clearly the whole issue of Care Proceedings goes wider than adoption. Any changes to the basis on which decisions are made under the Children Act or to the timing and extent of the court's involvement in cases prior to the care hearing are matters that would need to be carefully considered in relation to all Children Act procedures.

7.4 However, our examination of adoption has identified a clear need, if the Government's policy objectives are to be achieved, to ensure that:

- permanency is explicitly addressed at the start of Care Proceedings;
- proceedings are firmly directed and timetabled;
- the court and Guardian are able to express their views on the LA's plans for rehabilitation, and to understand and appreciate the efforts made by LA social workers, as the case proceeds so that the plans can be modified where necessary



rather than activity having to be repeated sequentially in response to views expressed by the court later in the process.

Box 7.1 sets out one possible means of delivering this.

7.5 All relevant parties need to be involved in considering such a complex change.

**Recommendation 66:** The Lord Chancellor's Department (LCD) and Department of Health (DH) should conduct a rapid review and consultation exercise to consider how delay in Care cases can be reduced including considering the above model. The initial results should feed in to any Government policy document later this year.

7.6 In addition to improving the existing procedure the review should cover the following policy issues:

- whether any change is needed to the Children Act – eg to the welfare checklist – to ensure that planning for permanency is given sufficient weight in the early stages of the proceedings;
- whether and how to provide a fast-track system for children who are (a) very young and (b) where the indicators suggest rehabilitation is unlikely – eg where a series of siblings have been permanently removed. This would also include relinquished babies;

### *Box 7.1: Reforming Care Proceedings: a proposal*

The Directions hearing, which is generally, but not always, held early in the proceedings and at which all parties including the Guardians should be present, should take a much firmer grip on what work is going to be done, by whom and within what time scale. This would include determining an initial time-scale for rehabilitation, an initial determination of what expert reports would be required, and possibly using interim meetings to monitor progress. This would have implications for judicial training and for dissemination of research to the judiciary. Consideration would also need to be given to whether a system of reserving cases to a specific judge would be needed to make it effective.

The advantages of this would be that:

- all parties would be clearer about the initial timescale within which it was expected that rehabilitation should take place;
- the expertise of the GAL would be available right at the outset of the case; early decisions on expert witnesses could avoid duplication, particularly between GALs and social workers, and last minute instructions;
- by the time of the care hearing judges and GALs would have a better level of knowledge than presently about the rehabilitation and would have had an opportunity to say if they thought it was inadequate or insufficient;
- the parent would have a clearer idea what was expected of them and other parties should find it easier to agree when rehabilitation was no longer an option.



- setting challenging but deliverable benchmark timescales for Care cases (informed by work on National Standards for adoption and permanence on suitable timeframes centred on the needs of the child);
- whether guidance could be established for courts and social workers on what constituted robust rehabilitation in different cases;
- how to ensure good local working and shared understanding between the courts and LA social services departments, perhaps through the development of local fora for co-ordination and discussion;
- whether the court's role should be extended beyond the making of a Care Order, to reviewing progress on the Care Plan.

7.7 It is important that, in seeking to carry out their duty of ensuring plans associated with Care Orders are indeed in the best interests of children and are progressed, the courts do not place undeliverable expectations on the rest of the system. One instance of this is tendency identified in paragraph 3.43 for some courts to require LAs to present details of identified prospective adopters before granting a Care Order with adoption as the plan.

**Recommendation 67:** DH should consider clarifying in legislation that courts should not expect specific adopters to have been identified when considering a care application with adoption as the plan.

7.8 Better information will be needed to support the effort to tackle delay in Care Proceedings. At the moment the Government lacks the routine data necessary to performance manage the system against benchmark timescales. The same is true of Adoption Proceedings (see paragraph 7.16).

**Recommendation 68:** LCD and the Court Service should put in place the means to monitor and report the time taken in Care and Adoption Proceedings, by court.

## The Role of Guardians Ad Litem

7.9 Given the problems identified, we considered whether it was necessary to have two agencies in care proceedings – GALs and social workers – both responsible for pursuing the best interest of the child. We concluded that there remains an important role for Guardians to play. They are a highly experienced body of social workers whose expertise is valued by the court, particularly in cases where the performance of the LA is not of a sufficiently high standard. They were also given their role in the Children Act as a response to concerns that there should be an expert independent check on LA actions in removing children from their parents. The team does not believe that LA practice can yet be demonstrated to be sufficiently consistent and subject to internal quality control to justify removing this check.

7.10 However, improvements can be made to the Guardian's role (as described above) and to Guardians practice which could help improve care proceedings.

**Recommendation 69:** Improved co-ordination between GALs and LA social workers to ensure that GALs expertise is available at an earlier point in the case. The Government should consider how to achieve this, taking into account the wider social care workforce context. The issue should be partially addressed in the review of court proceedings recommended above. One solution the Government should consider is to amend the GAL's terms of service to include attending LA LAC and other relevant

planning reviews (where practicable) so that they can provide input on where they consider more or different activity should be undertaken. The new Child and Family Courts Advisory and Support Service (CAFCASS) should address this issue in its contractual arrangements with GALs.

7.11 The aim would be to ensure that their input fed in at an early stage, rather than later as it is at the moment, leading to duplication and delay for the child. It is important to be clear that this does not involve them agreeing or participating in the LAs plans and would not in the team's view in any way compromise their independence. If the GAL commented at this stage, however, that an aspect of the LAs planning was deficient the LA would have the opportunity either to conclude that its case would nevertheless be persuasive or to rectify it before any care hearing.

7.12 The team also noted that there can be a lack of mutual understanding between social workers and GALs which can be unhelpful in progressing cases. This is not wholly surprising. GALs tend to be highly experienced social workers who have years of practice under their belts but who may not have practiced as a Local Authority social worker for some or even many years. Local Authority social workers often lack the experience but have trained and operated more recently. Both groups could benefit from more frequent interaction.

**Recommendation 70:** CAFCASS should consider ways of enabling GALs to make their experience available to LAs and to pursue their professional development.

7.13 This might be achieved by, for example, encouraging GALs to undertake non-GAL social work either part-time or between 3 year appointments as a GAL.

Joint training of social workers and GAL/ROs should also be pursued.

7.14 There was also concern expressed about the lack of arrangements to ensure quality and consistence of performance of GALs, particularly relative to other public servants performing similar functions. Although it was not raised as a significant issue, the team noted that an apparent perverse incentive exists in the arrangements for paying GALROs by the hour rather than by case load. It was also told that availability of GALs can be a cause of delay in both care cases and adoption proceedings particularly where GALs are self-employed and availability drops during holiday periods.

**Recommendation 71:** CAFCASS should also consider how to put in place mechanisms to ensure availability, quality and consistency of performance, whilst preserving GALs independent role. These are issues CAFCASS should address in its contractual arrangements with GALs.

## Improvements to Adoption Proceedings

### *Tackling delay*

7.15 As with Care Proceedings, there is a general need for more of a grip on monitoring and managing the time taken for adoption cases.

7.16 At the invitation of the Lord Chancellor, prompted by this review, the President of the Family Division's Adoption Law Committee (PAC) has been conducting a review of the causes of delay in adoption proceedings, looking at the system as currently constructed. The Committee produced a very valuable report and has helpfully kept the PIU team informed of their thinking.



**Recommendation 72:** As recommended by the PAC, LCD should introduce active judicial case management of all Adoption Proceedings, so that all courts emulate the practice of the best. This would include using early direction hearings to set clear timetables for all parties, and actively managing the process. This should be supported by the routine collection and publication of data concerning the length of cases (see Recommendation 68), and the setting of benchmark timescales for the Adoption process, informed by the work on National Adoption Standards (see Chapter 6).

**Recommendation 73:** As recommended by the PAC, the Government should consider setting a more realistic timetable for Schedule 2 reports, with court discretion to fix them for complex cases, enforced by case management, and removing the duplication of other reports.

7.17 The study also identified that disputes over the payment of Legal Aid between Local Authorities and the Legal Aid Board can in some cases hold up adoption proceedings. It is clearly unacceptable that an administrative exchange between two different public services should hold up the adoption process.

**Recommendation 74:** LCD and DH to resolve the issue of Legal Aid payments.

### *Improving consistency and quality*

7.18 At the moment judicial expertise and the mutual understanding between the courts and Local Authorities is variable. Lack of a shared understanding of best practice and what works for children can lead to unnecessary duplication and undesirable delay.

**Recommendation 75:** LCD and DH should consider how to establish and implement shared expectations of best practice in terms of policy, practice and timescales, perhaps through establishing local fora for joint working, between the courts and Local Authorities, backed up by training, guidance and practice directions. Inconsistent and contradictory practice should be rooted out. There should be a shared understanding of what works for children, and the importance of avoiding delay.

7.19 The PAC has also identified the expertise of judges and court officials as a key factor in driving the timeliness and quality of Adoption Proceedings.

7.20 One of their principal recommendations is the concentration of adoption cases in specialist Adoption Centres. They recommend that cases should be dealt with by specially trained judges and court staff, who have developed experience and expertise in the particular issues around adoption. Delay should be reduced by the concentration of resources, if the centres are properly resourced. The PAC envisages that the Adoption Centres would mainly be in current Care Centres, with some at larger family hearing centres to retain geographical coverage. The PAC further recommends that adoption cases should no longer be heard by lay magistrates, whom they regard as having insufficient expertise.

7.21 We strongly support the aspirations driving these recommendations: that complex adoption cases should be dealt with by trained and experienced judges and court staff, and that the concentration of resources should be used to reduce delay. However, we have two specific reservations:

- given that magistrates courts deal mainly with simpler step parent cases (71% of magistrate court adoption cases are step parent or relative adoptions, as against

41% for all courts<sup>8</sup>), and process adoption cases faster than other courts (just under 4 months for an adoption case, compared to 5<sup>1</sup>/<sub>2</sub> for all courts<sup>9</sup>) the PIU team is concerned that removing adoption entirely from lay magistrates may risk increasing delay. We would prefer a situation in which magistrates dealt only with straightforward cases, perhaps by restricting agency applications and those involving agency-placed children to the higher courts, and ensuring through some mechanism that other complex cases were also transferred. We believe LCD should look closely at this when considering the PAC's recommendations;

- reflecting their remit, the PAC has considered the legal process based on the law as it currently stands. This PIU study recommends that the Government legislate to introduce, among other measures, Placement Orders. This would in future mean that in many cases difficult issues around consent would have been dealt with during earlier Care Proceedings, reducing the numbers of complex adoption proceedings. This may have implications for the creation of Adoption Centres.

**Recommendation 76:** LCD should consider how best to address clear need the PAC has identified for complex issues around considering adoption for a child to be dealt with by suitably trained and experienced judges and court staff.

7.22 At present adopters have to pay a fee to the court for an Adoption Order. This is charged on a per child basis, and is higher in the high court than in magistrates court. We believe this fee is often, but not always, paid by LAs in cases of the adoption of looked after children. Where it is not, it could

act as a deterrent, and we question whether adoptive parents should be charged.

**Recommendation 77:** LCD and DH to review the rationale for charging this fee.

## Consent

7.23 Chapter 3 identified concerns that the wording of the current consent form contributes to the number of contested cases. **Recommendation 78:** the wording of the consent form should be reviewed and amended.

<sup>8</sup> Murch et al (1993) op cit

<sup>9</sup> ibid

## 8. CHANGING THE LAW

### Summary

To underpin the new approach to adoption, clarify the basis of planning for permanence and adoption, and speed up the process of adoption itself, we recommend that the Government draws up, consults on and introduces new primary legislation.

Legislation is needed to align the Adoption Act with the Children Act, provide a full spectrum of permanence options, introduce new mechanisms for handling consent and speeding-up placement, and to underpin several of the other recommendations in this report, including Local Authorities ability to work together to recruit and share adopters and their duty to make available proper post adoption support.

### Why Legislate?

8.1 Most of the recommendations in this report can be achieved without legislation, or through existing powers of direction and regulation, in co-operation with all the stakeholders in the adoption process.

8.2 However, new primary legislation is required to support the implementation of the new approach to adoption through:

- ***promoting permanence and adoption for looked after children*** by aligning the Adoption and Children Acts, clarifying the basis of planning and providing a full spectrum of legal options for permanence;
- ***supporting the recruitment of adopters*** by underpinning the new national and local structures to support recruitment and matching;

- ***helping to deliver the plan for adoption*** by providing new legal mechanisms to deal with consent and facilitate timely placement; and
- ***supporting adoptive families*** and meeting the needs of birth families, by placing a clear legal duty on Local Authorities to make available proper post-adoption support.

Legislation will also provide a powerful signal of the Government's commitment to adoption and permanence.

**Recommendation 79:** The Government should consult before the end of this year on proposals for new primary legislation to underpin its new approach to permanence and adoption.

## Promoting Permanence

8.3 Currently the Adoption Act 1976 and the Children Act 1989 are inconsistent with regard to the duties in relation to the child, which can lead to problems in consistency and interpretation. As proposed in the draft 1996 Adoption Bill, the child's welfare should, as in the Children Act, be the paramount consideration in deciding on adoption, and the same child-centred general duties (ie. delay is likely to prejudice child's welfare) should be applied as under the Children Act. These changes would provide very strong reinforcement throughout the legal system to the changing approach to adoption we recommend that Government enacts.

8.4 Proposals for changes to the current legal framework aimed at clarifying the basis of planning for permanency may also emerge from the review of Care Proceedings recommended in Chapter 7 (see paragraph 7.6).

**Recommendation 80:** The Government should legislate to align the Adoption Act with the Children Act and clarify the basis of planning for permanence.

8.5 One specific message to be voiced during the study was that the range of legal options to provide the spectrum of permanence is at present not complete. In particular, there was a need identified for an intermediate legal status for children that offered greater security than long term fostering without the absolute legal severance from the birth family associated with adoption.

8.6 While planned long term fostering could offer some degree of security, and might suit some children, it still lacks real security and a proper sense of permanence in a family. Children are still subject to monthly visits

by social workers and annual medical inspections, and permission from a social worker is needed, for example, before a child can 'sleep over' at a friend's house. Residence Orders were acknowledged to provide some of what was required, but are still open to legal challenge at any time, and usually ended when the child was 16. Those consulted were of the view that a new option would in particular fulfil the needs of a distinct group of older children who did not wish to be adopted.

8.7 The precise nature of a new option will need careful consideration. This could draw on ideas developed during the review of Adoption Law in the early 1990s, together with international experience (for example, the current review of legislation in New Zealand is examining the concept of a "continuum of guardianship").<sup>9</sup>

**Recommendation 81:** The Government should consult on the details of a new legislative option for providing permanence short of adoption.

## Improving Recruitment and Matching

8.8 It should be possible to implement the proposals in Chapters 5 and 6 for a new National Register of adopters and children, and for the development of regional consortia arrangements between Local Authorities without primary legislation, at least initially, but it may be desirable in the longer term to underpin the new structures with legislative backing.

**Recommendation 82:** The Government should, as necessary, legislate to underpin new national and regional arrangements for recruiting and sharing adopters.

<sup>9</sup> Selwyn & Sturges (2000) *International Overview of Adoption* unpublished study for PIU



## Delivering the plan for Adoption

8.9 As a solution to the problems identified in Chapter 3 with the current legal mechanisms for dealing with consent and facilitating placement for adoption, the study established that there is general support for the provisions in the 1996 draft Adoption Bill around placement and Placement Orders.

8.10 These would abolish Freeing and introduce a more flexible system that would allow Local Authorities to place children for adoption with the parent's consent, or under a Placement Order. Where a child was on a Care Order with adoption as the plan, LAs would have to apply for a Placement Order. Placement Orders would allow the LA to place the child with suitable adopters, but would not restrict them to specific prospective adopters. Parental responsibility would transfer to the prospective adoptive parents once the child has been placed with them.

**Recommendation 83:** Subject to consultation on the detail, the Government should legislate to introduce Placement Orders, as envisaged in the 1996 draft Adoption Bill.

8.11 The study identified long delays in the court process for straightforward adoption cases, including step parent adoption. While adopters and children wish the act of adoption to be marked in manner that reflects its significance, it is at least questionable why these cases need to be dealt with through the resource intensive and sometimes lengthy means of a court hearing, especially considering the pressure on the court system. The Government should consult on whether some alternative mechanism could be found to deal with them more expeditiously, for example the Registrar of Births, Deaths and Marriages.

**Recommendation 84:** The Government should consult on whether court proceedings are necessary for straightforward non-contested adoptions.

## Supporting Adoptive families

8.12 Chapter 3 identified a range of problems with the availability, consistency and quality of post adoption support, and with the clarity of the current legal position. Our recommendations in Chapter 5 are aimed at guaranteeing to prospective adopters that the support they and their family need will be available, during and after adoption, in order to attract more adopters, and improve the outcomes of adoption. The needs of birth families must also be addressed. This should be underpinned by legislation.

**Recommendation 85:** The Government should legislate to place a clear duty on Local Authorities to provide, or make arrangements to provide, comprehensive multi-disciplinary post adoption support services.

## CONSULTATION

The Government would welcome views on the conclusions and recommendations in this report. Comments should be sent to:

Room 122  
Department of Health  
Wellington House  
133-155 Waterloo Road  
London  
SE1 8UG

to be received by 6th October.

## ANNEX 1: THE ROLE OF THE PERFORMANCE AND INNOVATION UNIT

The creation of the Performance and Innovation Unit (PIU) was announced by the Prime Minister on 28 July 1998 as part of the changes following a review of the effectiveness of the centre of Government by Sir Richard Wilson. The PIU's aim is to improve the capacity of Government to address strategic, cross-cutting issues and promote innovation in the development of policy and in the delivery of the government's objectives. The PIU is part of the drive for better, more joined-up government. It acts as a resource for the whole of Government, tackling issues that cross public sector institutional boundaries on a project basis.

The Unit reports direct to the Prime Minister through Sir Richard Wilson and is headed by a Senior Civil Servant in the Cabinet Office. It has a small central team that helps recommend project subjects, manages the Unit's work and follows up projects' recommendations with departments. Work on the projects themselves is carried out by small teams assembled both from inside and outside Government. About half of the current project team staff are drawn from outside Whitehall, including from private sector consultancies, academia, the voluntary sector and local government.

The first set of PIU projects, was announced by the Prime Minister in December 1998. Comprehensive information about these and subsequent projects can be found on the PIU's website at [www.cabinet-office.gov.uk/innovation](http://www.cabinet-office.gov.uk/innovation)

## ANNEX 2: THE PIU TEAM AND STEERING GROUP

### *The Team*

The report was prepared by a multi-disciplinary team, drawn from the public and voluntary sectors:

- Joy Hutcheon (Team Leader), Senior Civil Servant seconded from the Home Office
- Angela Graham, Service Manager, Children and Families Provider Unit, seconded from Kent County Council
- Andrea Lee, PIU Central Economics Team
- Gerri McAndrew, Executive Director of the National Foster Care Association, seconded part time to the project
- James Paton, seconded from Department of Health

The team acknowledges the valuable support received from other members of the PIU and from the Department of Health.

### *Steering Group*

A working group to support the Prime Minister's review, and act as steering group for the PIU study, was chaired by John Hutton MP, Minister of State at the Department of Health. The Group comprised:

- Chris Burdett, National Assembly for Wales
- Felicity Clarkson, Home Office
- Tom Jeffery, Department of Health
- Judith Killick, Lord Chancellors Department
- Geoff Mulgan, Number 10 Policy Unit
- Jamie Rentoul, PIU
- Lord Warner, Youth Justice Board

## ANNEX 3: CONTRIBUTORS TO THE STUDY

### External organisations and individuals

#### *Local Authorities*

Association of Directors of Social Services  
Local Government Association  
Hammersmith and Fulham Borough Council  
Birmingham City Council  
Portsmouth City Council  
Nottinghamshire County Council  
Hackney Borough Council  
Camden Borough Council  
Surrey County Council  
Sutton Borough Council  
Hartlepool Borough Council  
Kensington and Chelsea Borough Council  
Cheshire County Council  
Brighton and Hove  
Manchester City Council  
Norfolk County Council  
Waltham Forest Borough Council  
Reading Borough Council  
Telford & Wrekin Council  
Shropshire County Council  
Blaenau Gwent County Borough Council  
Bridgend County Borough Council  
Conwy County Borough Council  
Gwynedd Council  
Merthyr Tydfil County Borough Council  
Monmouthshire Council

Neath and Port Talbot County Borough Council

Newport County Borough Council

Pembrokeshire County Council

Rhondda Cynon Taff County Borough Council

Swansea County and City Council

Torfaen County Borough Council

#### *Voluntary Adoption agencies*

Coram Family

NCH Action for Children

Catholic Children's Society

Catholic Children and Families Society, Wales

Parents for Children

St. Francis' Children's Society

#### *Numerous participants of the "Future of Adoption Services" conference held on 10 April 2000 including:*

Down Lisburn NHS Trust, N. Ireland

Westminster City Council

Kent County Council

Oxfordshire County Council

Gateshead Metropolitan Borough Council

Stockport Metropolitan Borough Council

Bedfordshire County Council

Lincolnshire County Council

Milton Keynes Council

East Sussex County Council

Barnardos



### *Voluntary Organisations*

British Association of Adoption and Fostering (BAAF)

BAAF Cymru

National Foster Care Association

Adoption Forum

Adoption UK

Who Cares? Trust

Grandparent's Federation

Family Rights Group

After Adoption

NORCAP

ATRAP

Racial Equality Unit

### *Child Care Consultants*

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### *Legal/Courts*

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Surrey/Hampshire and Portsmouth Guardian ad Litem Panel

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Professor M. Murch

Ravinder Barn

Professor. Roy Parker

Professor June Thoburn

Dr. Alan Rushton

Professor John Tresiliotis

Professor David Howe

Dr. Morag Owen

Professor David Quinton

### *Government*

Department of Health

Social Services Inspectorate

Home Office

Lord Chancellor's Department

Children and Family Courts Advisory Service

# ANNEX 4: INTERNATIONAL COMPARISONS<sup>1</sup>

As the graph below shows, the percentage of children adopted from care varies from 6.6% in the USA to 0.2% in Sweden, reflecting the different priority given to adoption in each country. The UK is closer to the USA in the extent to which it is willing to over-rule parental wishes in order to place children for adoption. Elsewhere in Europe, there is a much greater reluctance to over-rule the wishes of parents.

families; 52% of children stay in care for less than a year; of care leavers each year, almost 60% are reunited with their families.

About 117,000, or 20%, of all looked after children have been identified as waiting for adoption. Of these, only 30% were adopted during the year.

Figures for 1998 indicate that the majority of children were adopted under the age of 10 years with the mean age of 6.9 years. The children were equally divided according to gender with 38% from a white background and 61% from a minority background.

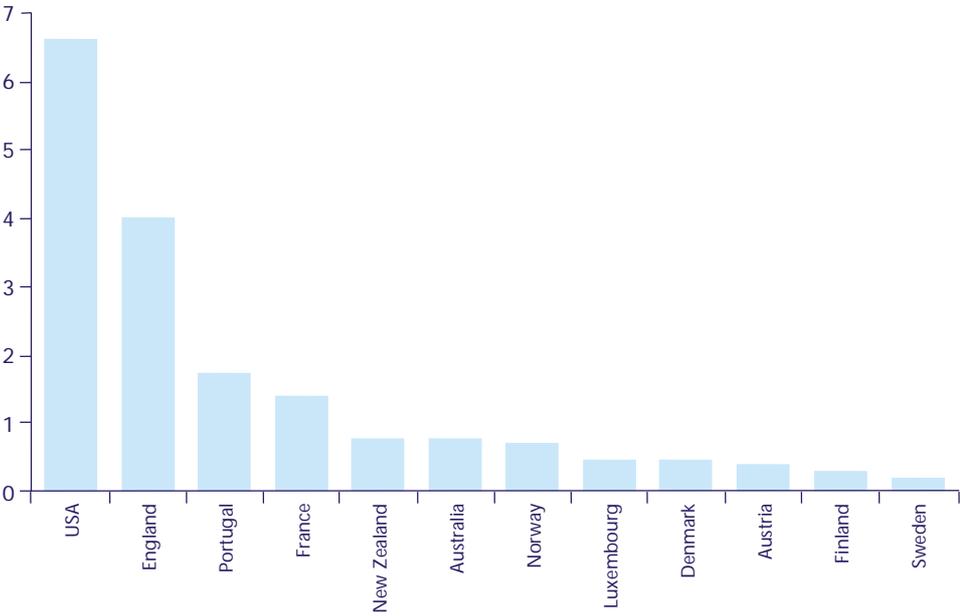
Almost half the children adopted from care were adopted by former foster parents, a smaller percentage by relatives and 40% by people unrelated to them. The majority of

## Country Summaries

### USA

In the US, there is a much higher proportion of under 18s in care – 75 per 10,000 children compared to 47 per 10,000 in England. As in England, the vast majority are with foster carers and a high proportion return home to their

Figure 2: Percentage of children adopted from care by country



Source: PIU research study, University of Bristol, April 2000

<sup>1</sup> Information in this annex is based on unpublished research for the PIU: J. Selwyn and W. Sturgess *International Overview of Adoption: Policy and Practice*, and J. Thorburn *A Comparative Study of Adoption*



adoptive applicants came from married couples (66%) followed by single females (31%).

The Adoption and Safe Families Act (ASFA 1997) sought to strengthen the child welfare system's response to children's need for safety and permanence at every point along the continuum of care. It clarifies when efforts to prevent, remove or reunify children are not required and requires criminal record checks of prospective adopters and foster carers. To promote permanency, the ASFA has shortened the time frames for conducting permanency hearings and created a new requirement for states to make "reasonable efforts" to finalise permanent placements and establish time frames in which to file petitions for the termination of parental rights for certain children in care.

### *Australia and New Zealand*

Australia and New Zealand both promote working together with families, with an emphasis on early prevention rather than intervention. Numbers adopted or in permanent care are low, in part because "kinship care" is viewed as option of first choice.

In Australia, over 14,000 children were in care of which 87% were in home-based arrangements. In New Zealand, 3,500 children were in care and 80% were placed in home-based arrangements.

Of the small number of adoptions from care, in New Zealand around 80% are of children younger than 2 years old, reflecting that adoption is still primarily a means of supplying babies to childless couples. In Australia, almost half adoptions from care were infants aged under 1. Neither Australia nor New Zealand regard adoption as an option for special needs children.

Emphasis is placed on identity and openness. Many agencies will not approve adopters who are unwilling to facilitate continuing birth family contact after adoption. Forms

of guardianship are available where parental consent is not given.

Special provisions to ensure that whenever possible children of indigenous ethnic origin remain within their kinship groups.

In New Zealand there is extensive use of "Family Group Conferences" which can help to reach decisions earlier and reduce delay.

### *Norway/Sweden*

Welfare policy concentrates on strengthening families and on preventative services and this is reflected in child care practice.

Consequently the rate of children entering care is very low.

In Sweden more than 80% of children in care are placed in foster care with the ultimate aim of family reunion. In Sweden there is no provision for placement for adoption without the consent of the parents, nor any provision for a permanent care order with consent. Family Group Conferences have recently been introduced.

In Denmark it is considered important to preserve the concept of the 'integrity of the nuclear family'. The state takes on an active role in supporting families, continuing support after the removal of a child and provides an intense service provision for rehabilitation at home.

More children tend to stay longer in care in Norway than in Sweden or Denmark possibly reflecting the fact that in Norway children are only usually committed to care once everything else has been tried.

In Sweden, Finland and Denmark adoption is not currently viewed as an option in child welfare policy. However, open adoption is now being considered by some of the Scandinavian countries as a possible way to meet the needs of children within the welfare system and at the same time maintain some links with the birth family.

## ANNEX 5: KEY FACTS RELATING TO LOOKED AFTER CHILDREN IN ENGLAND

**The looked after population is becoming younger.** The average age has fallen from 11 years 3 months in 1994 to 10 years 4 months in 1999. Over the same period there has been a 49% increase in the number of looked after children under 1, and a 45% increase in the numbers aged 1–4, compared to the overall increase of 13%.

**Table 1: Change in age profile of Looked After Children**

Age	1994	1999
Under 1	3%	4%
1–4	13%	17%
5–9	21%	23%
10–15	43%	40%
16 plus	20%	16%

Source: DH analysis for PIU team, April 2000

**Time spent looked after varies sharply.**

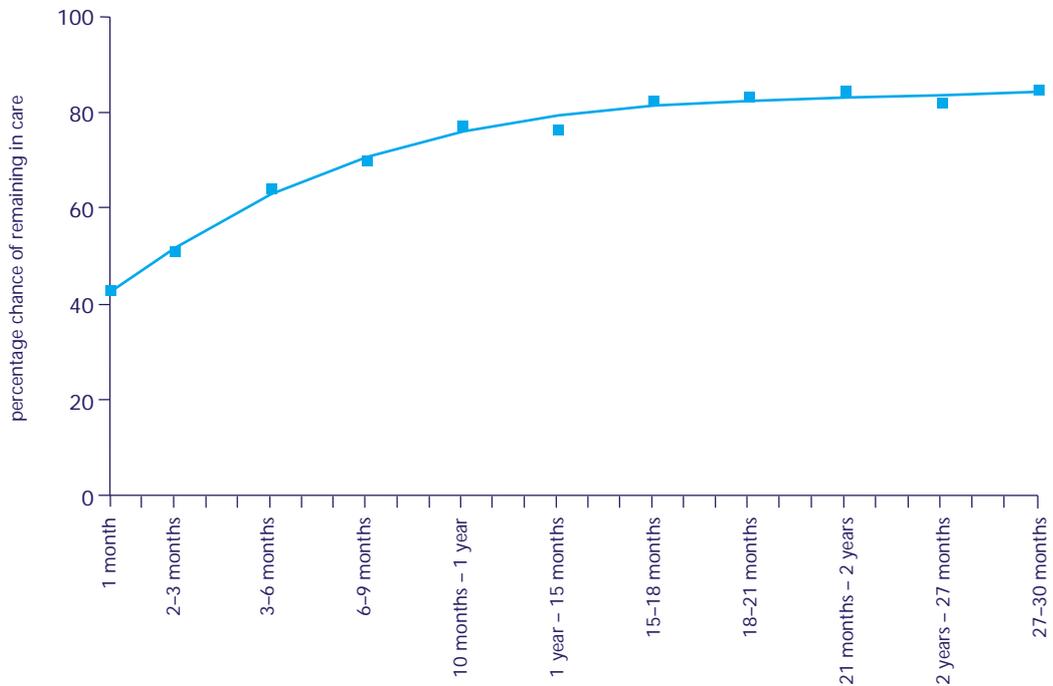
The population is split between those experiencing rapid turnover and children who stay longer. In 1998/9 40% of children leaving care in that year had been looked after for 8 weeks or less. On the other hand, 22% had been looked after for more than 2 years, and 7% for more than 5 years. Around 40% of all children looked after on 31 March 1999 had been in care for 3 years or more.

**The chance of successfully returning home decreases the longer a child is looked after.** A child that has been in care for more than 6 months has a 60% chance of remaining in care for 4 years or more (and most likely until leaving the system at 16 years old). By 12 months this has risen to nearly 80%. Figure 1 plots the chance of children, aged up to 15 years on leaving, remaining in care against the length of time they had been looked after, measuring from 1995. It is interesting to note the overlap between the point at which the curve flattens out (15–18 months spent in care) and the 15–22 month point at which recent US legislation automatically terminates birth parents' rights, in the absence of successful rehabilitation, with a view to moving to adoption;<sup>1</sup>

1 Adoption and Safe Families Act (ASFA) 1999



Figure 1: Chance of remaining in care vs time looked after

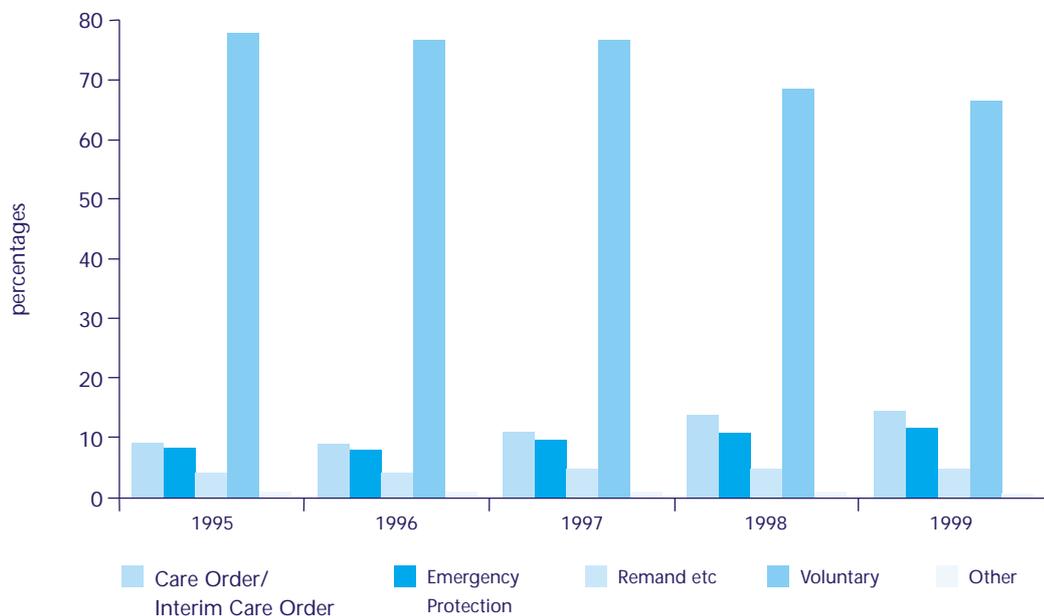


Source: DH analysis for PIU team

There are indications that the **needs of those looked after are becoming more challenging**. Between 1995 and 1999 there has been a 53% increase in the proportion of children starting to be Looked After because of abuse or neglect, up from 19% to 29%.

As Figure 2 demonstrates, there has been a parallel increase in the proportion of children coming into care under Care Orders or Emergency Protection Orders.

Figure 2: Legal status on becoming looked after (%)



## ANNEX 6: DELAYS IN DELIVERING THE PLAN FOR ADOPTION

The tables below set out the timescales from the key stages in delivering the plan for adoption.

**Table 1: Average Timescales for Looked After Children Adopted<sup>1</sup>**

Age (on starting to be Looked After)	Av. Time between adoption decision and match	Av. time between match and placement	Av. time between placement and adoption	Av. Time between adoption decision and final adoption
<i>All children</i>	<i>6 months</i>	<i>1 month</i>	<i>1 year 2 months</i>	<i>1 year 9 months</i>
Under 1 month old	4 months	4 weeks	11 months	1 year 4 months
1 – 6 months	6 months	4 weeks	1 year 2 months	1 year 9 months
6 – 12 months	5 months	6 weeks	1 year 3 months	1 year 9 <sup>1</sup> / <sub>4</sub>
12 – 30 months	7 months	5 weeks	1 year 4 months	2 years
30 months – months	9 months	6 weeks	1 year 8 months	2 years 6 <sup>1</sup> / <sub>4</sub>

**Table 2: Legal Process Timescales<sup>2</sup>**

Time from application to order made	Freeing Order	Adoption Order (no relation)	Adoption Order (step parent)	Adoption Order (child previously freed)
<i>Average time</i>	<i>9.3 months</i>	<i>6.3 months</i>	<i>7.7 months</i>	<i>3.3 months</i>
<i>Time for contested cases</i>	<i>9.7 months</i>	<i>7.9 months</i>	-	-
<i>Uncontested/ not known</i>	<i>4.7 months</i>	<i>4.5 months</i>	-	<i>3.3 month</i>
Breakdown of time taken				
Upto 3 months	4%	12%	5%	
3 – 6 months	25%	52%	37%	
6 – 9 months	17%	12%	17%	
9 – 12 months	13%	5%	10%	
12 – 18 months	17%	7%	9%	
18 – 24 months	3%	4%	2%	
Over 24 months	2%	1%	2%	

1 source: BAAF survey 1998/9

2 source: Murch et al (1993) *Pathways to Adoption* London HMSO

## ANNEX 7: THE SCALE OF ANY INCREASED ROLE FOR ADOPTION

1.1 This annex:

- provides a range of illustrative benchmarks for the potential increase in adoption;
- assesses the potential of current policy initiatives to deliver increased use of adoption.

### *Assessing the scale of any potential increase*

1.2 While there was general support among those contributing to the study for increasing the role of adoption as an option for looked after children, there was little consensus among those consulted during the study on the numbers of children who might be adopted. Estimates ranged from a few hundred to several thousand.

1.3 Breaking down the current stock of looked after children provides an indication of the potential order of magnitude for any increase, bearing in mind that adoptions from care currently run at around 2,000 per year. In 1999:

- 39,100 children had been looked after for over 1 year;
- of these, 15,190 were under 10 years old and 5,890 were under 5;
- 28,700 had been looked after for over 2 years;
- of these, 9,490 were under 10 and 2,790 were under 5;

- research indicates that these long stay children do not necessarily enjoy stability. One study found some 28% have three or more moves in their first year.<sup>1</sup> Reducing these moves is a key policy objective for DH. The current target is to reduce to 16% the proportion with three moves or more;
- by 15–18 months spent in care, the chance of successfully going home has levelled out at c.20% (see Annex 5).

1.4 Further, in considering the potential scale of any increase, it is important to bear in mind that Local Authority performance on adoption is very variable. The proportion of looked after children adopted varied between 1% and 14% in 1999, with 4% being the average. Some of this variability will be down to the relatively small numbers of children involved, but it clearly indicates scope for improvement.

1.5 The following provide an illustrative range of totals for the numbers adopted, to give a feel for the impact of various levels of performance improvement, working from the 1998/9 figures – 2,200 adoptions of looked after children, 4% of the total:

- in the first instance the results of the 1999 survey of Local Authority implementation of LAC(98)20, indicating that 2,400 children with adoption as the plan were unplaced while 1,300 approved adopters were had no children placed with them, points to the potential to increase the rate in the short term;

<sup>1</sup> Quinton (2000) submission to PIU study team, ref. Skuse and Ward (2000) *Looking after children – transforming data into management information* Dartington



- if all Local Authorities at least achieved the performance of the top quartile this would result in 2,980 adoptions, an increase of 700, or 35%, taking the 1999 figures, raising the proportion of looked after children adopted to 5.4%;
- taking the US target of doubling the number of adoptions would bring the level to c.4,400, or around 8% of looked after children;
- bringing *all* Local Authorities to the level of the most successful would bring the level of adoptions to c.5,100, a 230% increase to 9.25% of looked after children.<sup>2</sup>

1.6 One US commentator has suggested an alternative methodology for establishing performance targets, by attempting to calculate the stock of children suitable for adoption.<sup>3</sup> This involves taking the number of children aged under 6 who have been in care for over 2 years (and are not placed with relatives), and adjusting for those children placed with relatives who are likely to be adopted, those older children adopted and those children likely to return home from care. While the method does not directly translate to UK experience, applying it to the UK data suggests a figure of approximately 4,400 adoptions per year, 8% of looked after children.

1.7 However, none of the methods above take into account the complexity of the process of adoption for looked after children, with its stocks, flows and time lags. Given the time taken to place with an adoptive family, and the delay before adoption, the level of adoptions in any year is a reflection of decisions made over the previous several months and years. Furthermore, it is important to distinguish between the effect of short term action to place more of those children who currently have adoption as the

plan, which would produce a bulge in the numbers adopted probably lasting a number of years, and an increase in the proportion of children for whom adoption is identified as the plan in the first place, which is the only means of delivering a sustainable increase in the overall level of adoptions in the medium and longer term.

1.8 ***Therefore the figures quoted above can do no more than provide an illustration of the potential order of magnitude we might expect by improving performance on adoption.*** Based on the work we have been able to do in the time available, the team does not feel confident in recommending a precise target for the number of adoptions of looked after children without further analysis.

### ***What will current policy initiatives deliver?***

1.9 There is evidence that the increasing emphasis placed on adoption in recent years is producing results. The number of looked after children adopted increased by 18% between 1997 and 1999.

1.10 Analysis of the Quality Protects Management Action Plans submitted by Local Authorities in 1999 demonstrates that they are already planning a considerable increase in adoptions of looked after children:

- LAs are planning to increase the proportion of looked after children adopted to 6.3% by March 2002;
- this points to an annual level of around 3,600 adoptions by 2002, a 63% increase from the current level. This compares favourably with several of the illustrative benchmarks set out earlier;

<sup>2</sup> taking the highest average level achieved by a Local Authority 1995-99

<sup>3</sup> Barth (1999) 'Setting performance goals for adoption services: estimating the need for adoption of children in foster care' *Adoption Quarterly* Vol.2(3)

- around 50% of LAs reported they were investing in additional staff in their adoptions services, and developing co-operative links with other agencies.

1.11 This is encouraging, and confirms the clear accounts the team has heard during the interviews and visits of the beneficial effects of Quality Protects (QP) in promoting adoption. The projected level does, however, seem ambitious in the timescale – the rate of increase exceeds anything achieved in the last 30 years. There is no information available centrally on the record of LAs in forecasting numbers of children adopted from care.

**Table 1: Length of time looked after before adoption**

Length of time	1999	2002
Under 1	13%	20%
1–4	28%	38%
5–9	28%	26%
10–15	23%	13%
16 plus	8%	3%

Source: DH analysis for PIU team, April 2000

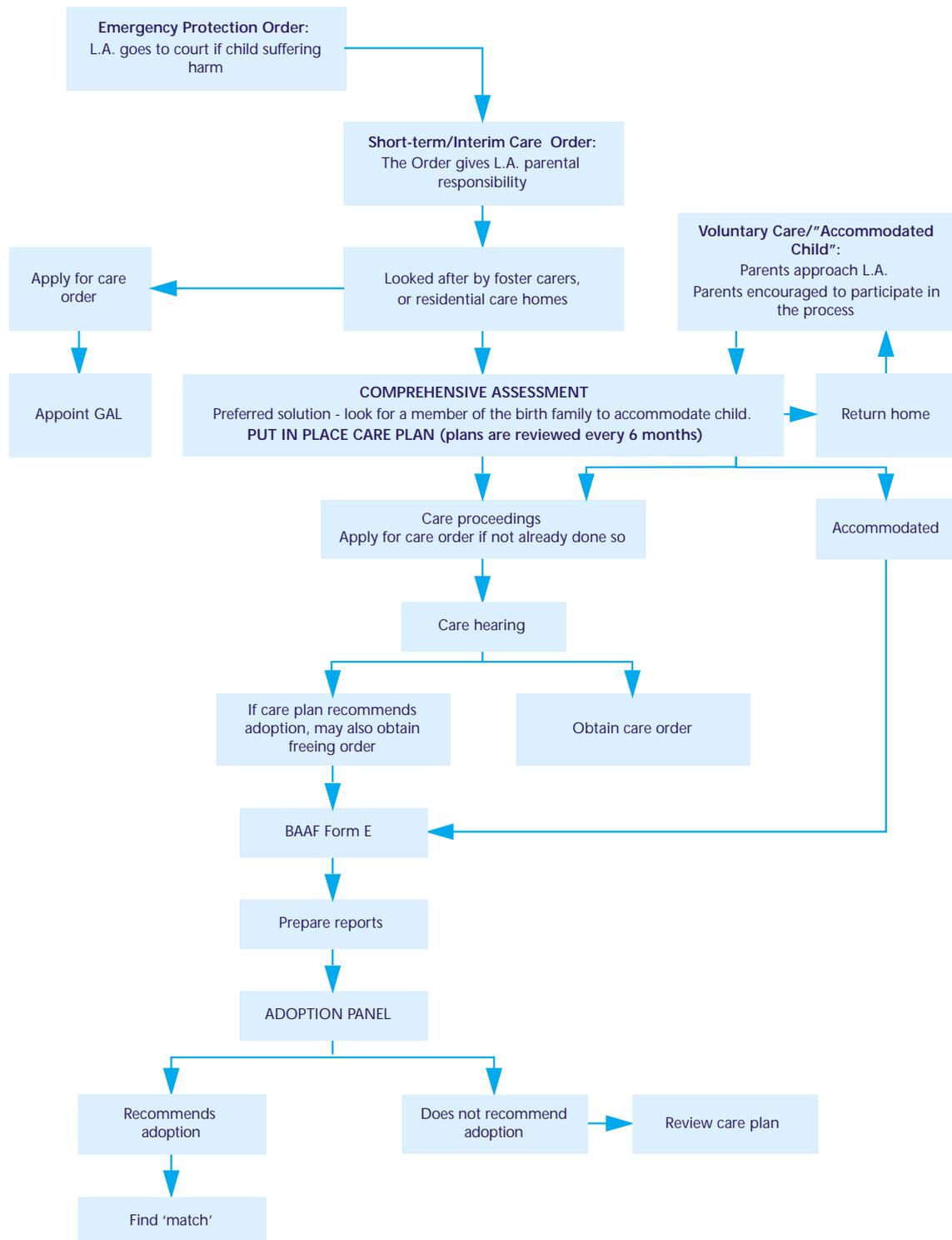
1.12 The QP MAPs also indicate that LAs are projecting a decrease in the length of time a child spends looked after before adoption (see Table 1).

1.13 This suggests that LAs are planning to increase their rates of adoption partly through ‘tail gunning’ those children spending longer in care before adoption, by placing more of them more rapidly with prospective adoptive families. This is highly desirable in itself, and thanks to the time lags in the system before adoption takes place, is likely to produce an increased level over a number of years.

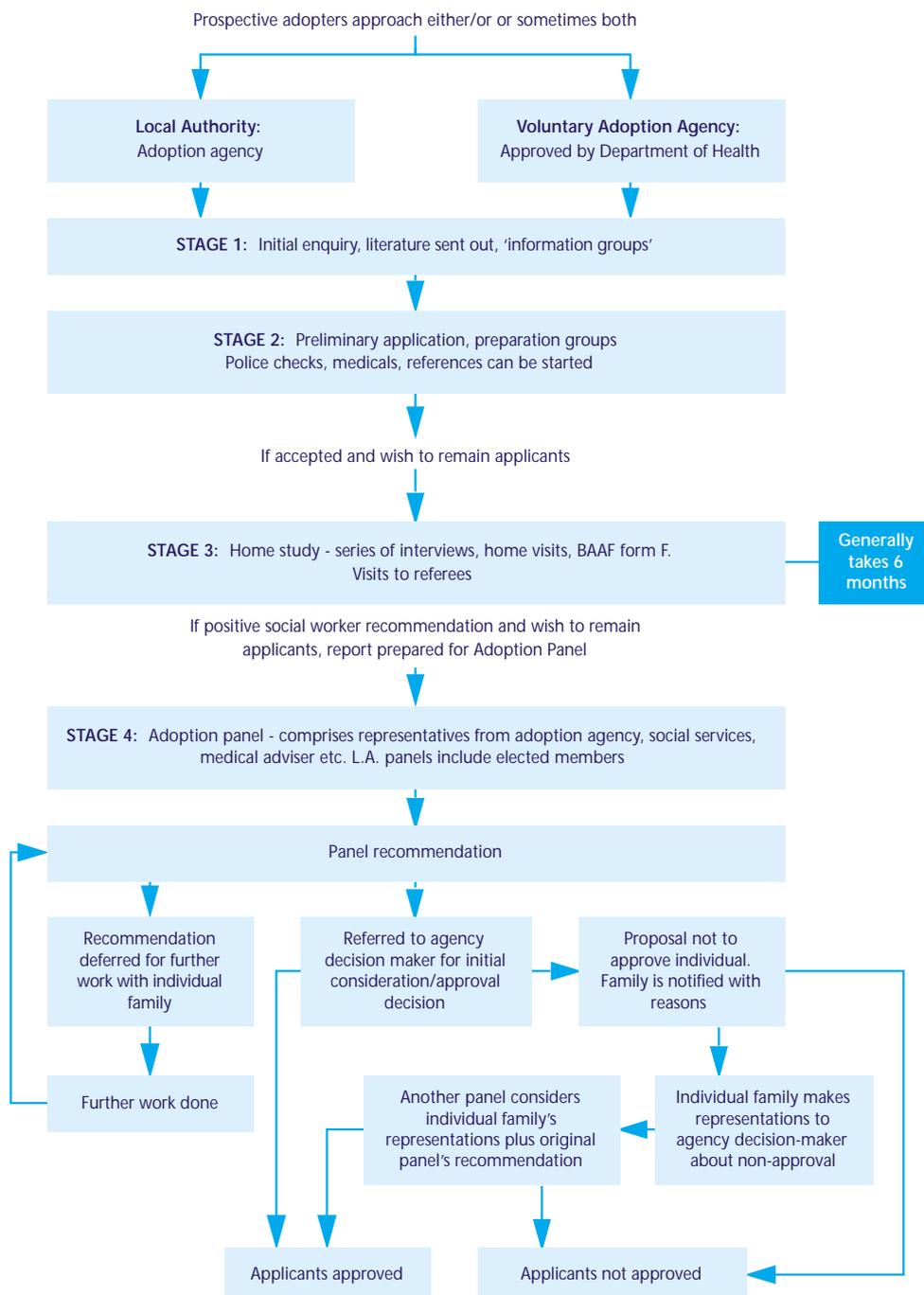
1.14 However, the QP MAPs also reveal a very modest planned increase in the proportion of looked after children with adoption as the plan. This is projected to rise from c.9.9% in 1999 to c.10.8% in 2002. Increasing this figure is the key to delivering greater use of adoption over the medium and long term. The QP MAP projections suggest there is much more to be done to raise the use of adoption as an option for looked after children.

1.15 Further analysis would be helpful here, especially as this round of QP MAPs is the first time LAs have been asked to forward plan in such detail in this area, and the rigour with which they have been able to do so is likely to have been very variable.

## ANNEX 8: ADOPTION FLOW CHART – CHILDREN



# ANNEX 9: ADOPTION FLOW CHART – PROSPECTIVE ADOPTERS (un-related to children)



# ANNEX 10: ADOPTION FLOW CHART – MATCHING

