

RESPONSE BY BAAF SCOTLAND to “Secure and safe homes for our most vulnerable children” – Scottish Executive, 2005

Introduction

BAAF (British Association for Adoption and Fostering) is the leading UK membership organisation for all those concerned with adoption, fostering and child care social work. It works to promote high standards in these services and increase public and professional understanding of the issues involved. It works on an inter-disciplinary basis across social work, health, legal and educational services, and aims to inform and influence policy makers and all those responsible for the welfare of children and young people.

This response has been informed by:

- A series of meetings held across Scotland, attended by over 100 participants representing a range of staff from local authority family placement teams, children and family teams, staff from independent fostering services and voluntary adoption agencies, solicitors, health professionals and those with direct personal experience of adoption and fostering;
- Discussions within BAAF Scotland involving staff with a wide range of family placement experience and current direct involvement with adoption and fostering practice across Scotland;
- Discussions at a range of fora convened by BAAF for legal practitioners, health professionals and specialist family placement staff.

BAAF Scotland has been involved in the work of both Phase I and II of the Adoption Policy Review group through the attendance of Barbara Hudson, Scottish Director and Lexy Plumtree, Legal Adviser. The latter was seconded to act as Independent Legal Adviser to the review group and authored the discussion paper "*Choices for our Children*" which identified key areas to be considered by the review group. BAAF Scotland has been pleased to be part of this important review of adoption policy and practice and believe that the final report and recommendations represent significant and positive developments to promote the long term welfare of some of Scotland's most vulnerable children.

Legislation will not in itself improve the circumstances of those children currently separated from birth families, and for those who will become separated, legislation can however create a climate and framework in which the highest possible child centred practice can take place. Making this practice a reality will require a major investment of resources in training for all concerned and critically in the recruitment assessment and support of new families.

Phase I of the Adoption Review made significant recommendations in this area and BAAF Scotland believes that if Phase II is to 'work', then Phase I must be actioned. The Adoption Policy Review was an ambitious undertaking dealing as it does with the local authority social work services, the hearing system and the courts system. To achieve the aim of "Adoption – *Better Choices for our Children*", it is imperative that all these systems are able to provide informed and timely action to provide security to children, security which is described by a child as "*nothing else is going to happen.... an ordinary life from now on*".

RESPONSE TO CONSULTATION QUESTIONS

Adoption

Point 3

BAAF Scotland welcomes recommendations 6 & 7 which will enable unmarried applicants, who are jointly bringing up a child to have the facility to make a joint application to legally adopt. This provision should extend to couples of the same or opposite sex who are in an enduring relationship. This provision will, BAAF believes, give greater legal security to children in these situations and potentially widen the pool of applicants who could be considered as prospective adopters. The definition of an unmarried couple outlined in recommendation 7 is, BAAF believes a helpful and practicable one. BAAF would also support the proposed change to fostering regulations to widen the range of potential carers to include unmarried couples.

Point 4

Current good practice when assessing all prospective applicants for adoption requires the stability of the applicant's relationship to be thoroughly considered and it would be sensible, when developing regulations to support new legislation, for this general practice principle to be included.

Point 5

BAAF takes the view that the welfare of the child must remain at the centre of all discussions and plans. The current arrangements, whereby the views of a parent about those matters which they believe are pertinent to the welfare of the child are taken into account should continue, but that ill informed or arbitrary opinions (on any matter!) expressed by the parents should not in themselves be sufficient to prevent a child having the opportunity to join a new family with demonstrable capacities to meet his or her needs.

BAAF believes that there is a responsibility on all those working within the Scottish Adoption Service to develop strategies for encouraging applications from as wide a range of individuals as possible. At any one time there are

between 4 and 5 hundred children awaiting permanent families. Regulation and guidance should focus on the need for 'inclusion', rather than exclusion. There should be an onus on agencies to examine all their criteria to ensure that they are based on principles which promote the welfare of children.

The provisions of the Children (Scotland) Act, BAAF believes adequately address those issues which are of significance when considering the best interests of children. There is however a need for greater effort on the part of those working with children separated from their birth families to attend to the issues of inclusivity and diversity i.e. giving due regard to race, religion, language and culture. Similarly, there needs to be a greater commitment by agencies to recruiting adoptive parents and foster carers from as diverse a range of backgrounds as possible in order to offer choice when considering prospective placements.

Point 6

Good practice in family placement requires that parent's views on a range of matters to do with the welfare and upbringing of children should be sought and considered. It has to be recognised however, that in some circumstances, the views and behaviour of parents has severely compromised the welfare of their children and attention must be paid to whether the parents are considering the welfare of the child or their own needs. Greater openness in adoption, and the trend for adopted people to make some direct contact at some point in the future with members of their birth family means that consideration has to be given to the impact of either paying undue attention to, or ignoring a birth parents wishes when (in later life) an adopted person is seeking to make contact with their family of origin. Due recognition has to be given to the fact that within the one 'nation' of Scotland, there are indeed 'many cultures' and that the impact of "cross cultural" placements will be lifelong. Set against this is the need to secure children as soon as can be achieved in families which have the capacity to meet their immediate and long-term needs.

Permanence Order

BAAF Scotland welcomes the principles of the Permanence Order which has the potential to be an extremely flexible and child centred piece of legislation. It is critical for the welfare of children that they are not subject to the “revolving door” phenomenon of repeated attempts at rehabilitation beyond all reasonable hopes of success, or to the prolonged uncertainty of “waiting to see what will happen next”. Children need certainty and predictability. The coruscating effect of uncertainty on childrens’ emotional, psychological and physical well being is well documented and this order has the potential to prevent this happening.

Point 7

The application by a local authority to a Court for a permanence order will make the planning process for children much clearer and prevent the anomalies and difficulties in the current system.

The granting of a permanence order with the potential of parental responsibility to be shared between significant people in a child’s life, including the foster carers has enormous potential benefits. The current provisions of a Parental Responsibilities Order (PRO) do not permit those caring for a child on a daily basis to assume any legal entitlement for decision making. The shared nature of legal responsibility has the effect of making children feel ‘different’ as foster carers have to seek permission from the local authority and birth parents for trips abroad, school trips, health care etc.

BAAF believes that it will be important within regulation and guidance to encourage the positive use of permanence orders and to recognise that for some children, a permanence order may be sufficient to promote the sense of stability and belonging within a family, but, that for others, the legal security and integration into a whole family network which comes through adoption will be vital.

It is envisaged that children who are subject to a permanence order will still have the status of a looked after child and will be subject to a system of review by the local authority. Guidance and training will be required so that the legitimate process of monitoring and review is undertaken in such a way as to promote a child's sense of permanence and well being, rather than undermine it. Guidance will need to balance the tension between over bureaucratisation of the process and organisational neglect.

Point 8

BAAF recognises the intention of recommendations 28 and 29 which seek to maintain the entitlement of a child or young person to access the Children's Hearing, but in a way that is proportionate to the presenting issue. Our support is therefore for recommendations 28 and 29, believing that these represent a balanced approach to the situation.

Support for adoption

Point 9

BAAF Scotland is aware, through its work across Scotland of the huge variations in access to, and provision of, adoption support services. The legislative basis for the provision of these services should be extended in the way recommended by the review group. It is also important to identify the range of services which would come under the heading of adoption support. There is a wide spread misconception that adoption support is an advice service available to adopted children and their parents. The reality is of course that adoption support services have to be accessible to all those 'parties' to adoption – birth family, adoptive parents, adopted children and adults, and that these services may be required at any stage in an individuals life.

Services that may be required, range from financial and emotional support to therapeutic counselling and intermediary services. Specifying the range of activities within regulations would have the twin benefits of identifying the range of service and reinforcing the fact that a range of agencies, social work,

education and health will all have a part to play in the provision of these services.

Point 10

As regards the strategic management responsibility for the provision of these services, BAAF believes that it would be sensible for regulations to prescribe an adoptive support 'function' at a senior level, rather than a specific person. Having this function located at a senior management level would hopefully ensure the issue of adoption support being fully integrated into children's service plans, making the involvement of all agencies a reality rather than merely aspirational.

Point 11

BAAF would support the proposals contained in recommendation 41 about the timescale for the provision of adoption support services by the placing agency.

Point 12

BAAF supports the principle outlined in recommendation 42 regarding the entitlement to adoption support services (ie) that anyone who can reasonably describe themselves as a birth relative, be it grandparent or sibling, should have access to advice, information and counselling and to any additional services connected with the adoption. There are unlikely to be a wide range of other services required but it would seem sensible not to prescribe what might be available, and instead to leave matters to an assessment of individual circumstances.

Improving court rules and avoiding delays

Point 13

BAAF welcomes the proposed introduction of a system of "leave to apply" and believes that this is an important and welcome approach to the prevention of repeated or vexation applications. This provision should apply in situations

where a permanence order has been granted. In relation to adoption orders, the current prohibition should be removed and section II should be amended.

Point 14

The legislation should require the applicant to produce relevant new information in order for the application to be considered. This inclusion of relevance would make it unnecessary for the inclusion of a minimum period between applications.

Point 15

The question as to whether information could be requested about a child or young person's whereabouts or welfare in order to provide birth relatives with the details necessary to ask for leave to apply to court is a complex one. BAAF's view is that the overriding consideration should be the wishes and feelings of the child and the need to protect his/her actual welfare and safety or their perceived welfare and safety. For some children, knowing that information about them has been passed to someone outside the immediate family can be of enormous anxiety and concern.

Curators, reporting officers and safeguarders

Point 16

BAAF would support the establishment of a centralised national system to appoint and train curators, reporting officers and safeguarders. The current system does not assist in the development of a coherent and consistent training and development programme. The individuals who carry out this work are entitled to a structure which will facilitate the highest standards of child focused practice.

Role of the children's hearing in permanence cases

Point 17

BAAF believe that the ethos of permanence should permeate all interventions with children and young people. Wherever possible, children should have the opportunity to grow up and be settled within their own family and that all

efforts should be made to achieve this within timescales that are relevant to the individual child. All efforts should be made to avoid drift and delay in planning for children. The local authority, when a child is accommodated should make this a priority and when a plan for permanence away from home is agreed, then this should be notified to the next hearing or within 2 months whichever is the sooner. Likewise, if the hearing is concerned that the local authority is not prioritising the child's need for permanence then this should be raised as soon as possible.

The role of the 'permanence panel' within the local authority should be strengthened within regulation.

BAAF does not support the continuance of review and advice hearings as there remains the potential for the review element to fundamentally change or challenge agreed plans, causing confusion and anxiety to children. If notification of the permanence plan has been previously given to the hearing, then the hearing should be for advice only.

BAAF supports the concept of nationally developed and quality assured training between key agencies (recommendation 70). Our experience of delivering such training has been that it has the potential to develop good professional relationships based on a shared understanding of the needs of children and the significance of research and practice. The lifelong impact of decisions made by all concerned is daunting and without sufficient training and development, individuals, whether social workers, hearing members or safeguarders incline to delay in making decisions until they are "sure" or "hope that matters will improve". The application of relevant research, exploration of values and robust child development knowledge is critical to this process and can only be provided through comprehensive training.

Fostering issues

Point 18

BAAF would support the concept of a national scale of allowances. To be credible, these allowances should be set and reviewed by a recognised group, informed by the TFN (Fostering Network) and by ourselves. Our organisations are about to launch a joint report on the Cost of Foster Care and there has been a recent publication by Fostering Network/Scottish Executive "Caring for our Children". Both publications highlight the vital importance of recruiting and retaining a range of foster carers sufficient to meet the needs of children. A nationally agreed allowance system is critical to this.

Point 19

BAAF would support the formation of a working group to consider further the whole issue of private fostering. The remit of such a group could usefully include the following, standards for private fostering, a system of public information about private fostering and a possible study of the extent and characteristics of private foster carers in Scotland.

Procedures within local authorities and agencies

Point 20

Recommendations 88-99 deal in considerable detail with matters relating to the role and functioning of adoptive and permanence panels. Our general view is that in the main, these matters could be addressed within guidance as they represent good practice.

In relation to recommendation 90, guidance on timetabling would ensure minimum delay but there has to be a similar process within the court system,

In recommendation 92, it is BAAF's view that if new information has come to light then the agency decision maker should refer the matter back to the panel as a whole.

As regards recommendation 93, BAAF believes that there should be an independent review function which is proportionate to the likely use of this

function. There would be scope for reciprocal review arrangements between local authorities and agencies, particularly building on membership of consortia. The same comment applies to recommendation 97.

In general terms, BAAF would support the intent of recommendation 98, namely the issuing of general guidance on the operation of fostering and adoption panels. The range of issues identified is by no means comprehensive. BAAF would commend an approach which looked at the duties and responsibilities of the panels and the ways in which panels could best discharge these in the interests of children, rather than the problem focussed approach implied by the list in recommendation 98.

BAAF supports the view that there should not be a prescribed list of offences, provided that the welfare of the child remains paramount, agencies should be entitled to exercise discretion.

Access to information

Point 21

BAAF supports the intention behind recommendations 103-106. The importance of adequate health information is one which our organisation has consistently advocated and on which we have published a range of practice notes and pro formas for the collation of such data. All those involved with children and young people will need support and training to ensure that relevant information is collected, that it is accurate and that the implications of the data are properly analysed and communicated in an accessible format to prospective adoptive parents or permanent carers. BAAF is acutely aware of the fact that as knowledge grows about genetics and the impact of adult health on the growth and development of their children, this area of information sharing will become increasingly important. It is vital therefore that legislation takes account of likely future developments.