

To: SOCIAL WORK COMMITTEE		Subject: ADOPTION POLICY REVIEW PART II - SECURE AND SAFE HOMES FOR OUR MOST VULNERABLE CHILDREN - SCOTTISH EXECUTIVE RESPONSE
From: DIRECTOR OF SOCIAL WORK		
Date: 27 OCTOBER 2005	Ref: MF/SG/JM	

1. Purpose of Report/Introduction

To seek Committee approval to submit the attached response from North Lanarkshire Council to the Scottish Executive as part of its consultation on Phase II of the Adoption Policy Review "Secure and Safe Homes for Our Most Vulnerable Children" attached as an appendix to this report. The deadline for submission to the Scottish Executive is 31 October 2005.

2. Background

- 2.1. An Adoption Policy Review was commissioned by the Minister for Education and Young People in April 2001 to undertake a review of adoption practice and law in Scotland. The existing legislation is over 25 years old and has not been substantially updated for 10 years. The number of adoption applications is falling and there is an unmet need for families to adopt children. Many children are without families and are looked after by Local Authorities.
- 2.2. The aim of the Review was to identify weakness within the current adoption system and suggest ways to modernise and improve adoption. The Review was carried out by an independent Adoption Policy Review Group, made up of experts in relevant fields and chaired by Sheriff Principal Graham Cox, Q.C.
- 2.3. The report on the first phase of the Review was published in June 2002 and a report on this was presented to Social Work Committee on 6 August 2002. Since then there has been legislation (the Adoption and Children Act 2002) which allows Scotland to join the Adoption Register.
- 2.4. The second phase of the Review was launched in Autumn 2003 and was aimed at modernising the legal framework for adoption and other possible forms of permanence that would secure children in permanent and stable families. The Phase II report "Adoption: Better Choices for Our Children" was published on 10 June 2005. The Executive's response is the current consultation paper "Secure and Safe Homes for Our Most Vulnerable Children". It is expected that legislation will be introduced in early 2006.
- 2.5. The Adoption Policy Review Group Phase II made 107 recommendations, most of which have been accepted by the Executive, with a smaller number not accepted.
- 2.6. The Scottish Executive recognises that it is vital to provide stable and secure homes for children who cannot live with their families. The Scottish Executive supports:
 - replacing existing Court orders with a single permanence order, and agrees that adoption should continue for those children for whom it is suitable
 - an improved legal framework for adoption support services

- the proposed improvements to the Court and Children's Hearing procedures
- the need for a national system of fostering allowances
- allowing joint adoption by unmarried couples (including same sex couples) and fostering by same sex couples (currently one person in an unmarried couple can adopt - their partner applies for a residency order)

3. Proposals / Considerations

3.1 The proposals are intended to:

- modernise and improve the legal framework for adoption and permanence planning
- create greater long-term stability and permanence (the sense of belonging to a family) for children
- improve procedures, services and support for adoptive and foster parents and everyone who uses the adoption and permanence system
- help fulfil the partnership commitment to give every child and young person the best possible start in life
- ensure that our most vulnerable children have the protection and security they need and deserve
- Create a modern, child-centred adoption system that is responsive to the needs of individual children

3.2 A number of the recommendations will require further work before legislation can be brought forward and it is on the detail of this work that the Scottish Executive welcomes comment. The Scottish Executive consultation paper asks a number of specific questions to allow the Executive to work out the detail of the changes required

3.3 Within North Lanarkshire a working group was established which consisted of social work staff, representation from legal services and an adoptive parent to enable a response to be made on the consultation questions.

3.4 North Lanarkshire Council welcomes the measures in the Scottish Executive's proposals that will open the gateway to a major overhaul of adoption legislation. The proposals will modernise and improve the law by speeding up the system, introducing new legislation and increasing the pool of families available to children.

3.5 North Lanarkshire Council has 20 children waiting on an adoptive or permanent home and has 8 families waiting on children to be placed for adoption. The children waiting are "difficult to place" within the current resources due to a variety of issues. Some of the children show signs of being affected by their parent's substance misuse or have experienced abuse. Some are in sibling groups of three and four children that the Council is endeavouring to keep together. The current resources are unable to match the needs of the children.

4. **Financial/Personnel/Legal/Policy Implications**

- 4.1. There are currently no financial considerations for the Council at this consultation stage.
- 4.2. Further consideration will require to be given to specific issues when the Scottish Executive formulates any legislative change as there will be significant implications for the Council in terms of funding and resources.

5. **Recommendation**

- 5.1. Committee is requested to:
 - (i) agree the attached response for submission to the Scottish Executive
 - (ii) request the Director of Social Work to report to Committee any implications for the Council when the Scottish Executive implement phase II
 - (iii) otherwise note the contents of the report



**Director of Social Work
5 October 2005**

A copy of the report will be placed in the members library

For further information on this report please contact David Carver, Co-ordinator, Looked After and Accommodated Children on telephone 01698-332651

**North Lanarkshire
Response to the Scottish Executive consultation
Secure and Safe Homes for Our Most Vulnerable Children
Adoption Policy Review Phase II**

North Lanarkshire Council welcomes the opportunity to provide comment on the consultation and would make the following observations in respect of the document.

The response has been made to individual questions as laid out in the consultation document and to groups of questions when referring to the same subject matter.

In general the Council welcomes the retention of adoption as a care option for some children and the recognition of the need to modernise elements of freeing for adoption is also welcome as in the introduction of the proposed new permanence orders.

Whilst an increased commitment to adoption support and national fostering allowances are welcome, a number of developments will have resource implications for Councils for which they are currently not funded.

Widening the range of those who can adopt and foster is supported, but more work is needed on private fostering.

Adoption

The framework for response based on questions:

Question 3:

The Executive would welcome views on the appropriate definition of an unmarried (or unregistered) couple for a Scottish court to apply in deciding whether to make a joint adoption order, bearing in mind the Executive's intention that the court should consider the enduring nature of the relationship (Recommendations 6 and 7).

Question 4:

The Executive would welcome views on whether there should be a power for Ministers to make regulations to ensure that, in determining the suitability of a couple to adopt a child, proper regard is had to the need for stability and permanence in their relationship (Recommendations 6 and 7).

The Council recognises the need to amend legislation to help increase the number of suitable families available to provide adoptive placements for children. There has been concern that the current arrangements excludes people from coming forward who could potentially offer a family placement to children.

The definition of unmarried couples used in the Adoption and Children Act 2002 is acceptable and is described as two people (whether of different sexes or the same sex) living as partners in an enduring family relationship.

The importance of a thorough assessment of a couples status was noted. A national framework for

assessment is supported by the Council to ensure proper regard is given to the need for stability and permanence in a relationship. The Council does not believe that this requires a legislative change.

A framework based on families for children and not children for families requires to be maintained.

Question 5:

The Executive would welcome views on:

- **What other factors should the court take into account in deciding whether an unmarried couple should adopt a child? For example, should the views of birth parents or the child be considered?**
- **Should there be any exceptions or special rules, for example for faith-based adoption agencies?**
- **Should the Executive issue guidance on considerations to be examined in determining the best interests of the child, and what might such considerations be? (Recommendation 6 and 7)**

North Lanarkshire Council suggests assessment arrangements for unmarried couples should be as robust as for married couples. There should be no special factors the court requires to take account of and no exceptions.

The principal applied should be that people are assessed on their skills and ability to provide a suitable safe, secure, stable and permanent home to children.

The Scottish Executives view that “the most important consideration is that the Court can make decisions in the best interests of the child, and is not constrained by the status of the relationship between the adults” is supported. The Council notes that currently children can be raised in adoptive families where both carers are not married.

Question 6:

The Executive would welcome views on the issues on which parental views should be sought in placing a child for adoption (Recommendation 11).

North Lanarkshire Council would wish to continue to follow existing good practice and continue to take into consideration parental views on issues such as religion, culture and race. Parental wishes should not be allowed to dictate the placement of a child where this can be shown to be in conflict with the principle of the welfare of the child having paramount consideration. Contact with members of the birth family should only be arranged for the benefit of the child and for a clear purpose.

Permanence order

Question 7:

The Executive would welcome views on the principle and details of the Permanence Order, in particular any practical or procedural issues that might arise from use of the Orders, and how these can best be addressed. (Recommendations 19-25)

Question 8:

The Executive would welcome views on the role of the hearing system in Permanence Orders, in particular any practical difficulties that would be raised by the recommendations and further questions on how the special arrangements that have been made for children on permanence orders can be recognised by the hearing system. (Recommendations 28 and 29)

North Lanarkshire Council welcomes the introduction of Permanence Orders which would secure children in a long-term placement and be flexible enough to meet the needs of individual cases. It covers children pending adoption, and children who require to be accommodated throughout their childhood.

The Scottish Executives view that “it is preferable for the Court to have responsibility for all decisions related to a child between an application for a Permanence Order being made and the Order being granted” is supported.

Following the granting of the Order any new referrals on the child should be dealt with by the Children’s Hearing System. However, the Council is of the opinion in these circumstances the powers of the Hearing should be limited and exclude residency and contact arrangements as these will already have been determined by the Court.

Adoption support

Question 9:

The Executive would welcome views on what additional adoption support services might be prescribed. (Recommendations 33-36)

Question 10:

The Executive would welcome views on the recommendation that local authorities should have an adoption support officer within the senior management team. (Recommendation 38)

Question 11:

The Executive would welcome views on the recommendation that a local authority placing a child for adoption should have responsibility for providing adoption support services to the child and the adoptive family for three years after the adoption order, in particular whether the period of three years is appropriate. (Recommendation 41)

Question 12:

The Executive would welcome views on how widespread any entitlement to adoption support should be – for example, should grandparents and siblings have a right to support – and on what services different groups of people should receive, for example, should birth relatives have a right to any services beyond counselling. (Recommendation 42)

North Lanarkshire Council supports the Adoption Policy Review Group’s recommendation for support in Adoption to include;

- Support individual or group work for adopted children, adopters and birth parents;
- Assistance, including mediation in arrangements for contact between adopted children and their birth parents, siblings and other relatives;
- Services to meet the therapeutic needs of adopted children;
- Assistance to adopters such as training to meet special needs and respite care;
- Mediation and other services if there is a disruption in an adoption placement, or risk of one.

The Council agrees that responsibility for Post Adoption Support should be rested in a senior officer to raise the profile of Adoption within the service and to ensure that the adoption support services plan is properly prepared and delivered.

The Council agrees that the placing authority should have responsibility for providing adoption support services to the child and adoptive family for three years after the Adoption Order is granted. This will ensure greater accountability in relation to the making of suitable and appropriate placements and responsibility for their continued support.

Support services should be available for all parties involved in adoption. This would include;

- Adoptees and children placed for adoption, including both those over and under 16;
- Adopters, including prospective adopters, after placement of a child;

- Birth parents who have/had parental responsibilities and whose children have been placed for adoption or been adopted;
- Others affected by adoption, including members of the extended birth family;

It is important to recognise that if these services are to be delivered, to a high standard, there will be significant personnel and finance resource implications for Local Authorities.

Improving Court rules and avoiding delays

Question 13:

The Executive would welcome views on whether a system of leave to apply to court would be effective in providing the protection from repeated or vexatious applications for children and adoptive families. (Recommendations 26, 51 and 52)

Question 14:

The Executive would also welcome views on whether other statutory measures would make the system of leave a more effective safeguard. For example:

- **Should the legislation require the applicant to produce new evidence, or evidence of a significant change in circumstances to support an application for leave?**
- **Should there be a minimum period between new applications for leave in respect of the same child? (Recommendations 26, 51 and 52)**

North Lanarkshire Council suggests a “system of leave” to apply to Court would be an effective way of preventing repeated or vexatious application for children and adoptive families.

The Council recognises that the system of leave would support the stability of placements without unnecessary interruptions for children.

The Council agrees that legislation should require the applicant to produce new evidence or evidence of significant change and there should be a minimum period of time when system of leave can be applied. This would ensure children have the maximum legal stability.

Question 15:

The Executive would welcome views on whether legislation should limit the circumstances in which an applicant could seek information about an adopted child in support of an application to court. (Recommendation 26, 51 and 52)

The Council supports legislation that limits the circumstance in which an applicant could seek information about an adopted child in support of an application to Court. The welfare of the child must be of paramount consideration and the placement protected by confidentiality.

Curators, reporting officers and safeguarders

Question 16:

The Executive would welcome views on the recommendation that there should be a centralised national system to appoint and train curators, reporting officers and safeguarders from which individual case appointments are made locally. (Recommendation 61)

It is noted that the Scottish Executive rejects this recommendation and welcomes views to support a national system.

The Council supports the recommendation as this would allow for more consistency with regard to

- Qualifications for appointment
- Method of appointment to individual cases
- Training and support
- Complaints

- Delays in submitting reports
- Funding and fees

These arrangements should ensure consistent and better qualified appointments to those who have a key role in safeguarding children.

Role of the children's hearing system in permanence cases

Question 17:

The Executive would welcome views on the stage in permanence planning at which there should be a statutory requirement on the local authority to inform the children's hearing system of its intention. The Executive would also welcome views on the steps to be followed after the hearing is informed of the local authority's intention, for example the model currently used when a decision is taken to place a child for adoption. (Recommendation 62-71)

It is noted that at the present time, the Reporter to the Children's Hearing should be notified within 7 days of the Adoption Panel decision being made and that a hearing should be convened within a further 21 days. The Council believes that a similar system and timescales for notifying Reporters should be implemented. It is recognised that the Children's Hearing system has an essential role to play in planning for permanence for children. It is proposed that the trigger for notifying Hearings at an earlier stage in the process could be through the Looked After and Accommodated reviews. There is a need for ongoing training with Panel members that addresses concerns about current discrepancies in practice.

Fostering Issues

Question 18:

The Executive would welcome views on the options for a national scale of fostering allowances. (Recommendation 76)

The Council strongly supports the view that a nationally agreed scheme of allowances should be introduced for foster carers. Guidance on the national scale should be provided annually by the Scottish Executive/Cosla. It is likely that there will be significant financial implications in this proposal for which Local Authorities are not currently funded.

The scheme would establish a more equal payment system across Scotland and prevent unfair competition between authorities.

Question 19:

The Executive would welcome views on the proposed working group on private fostering, and what the remit of such a group might be. (Recommendation 85)

Legislation with regard Private Fostering has not changed in twenty years. Whilst North Lanarkshire Council has recently reviewed its Private Fostering procedures it supports that a working group be established to review Private Fostering legislation.

Procedures within Local Authorities and Agencies

Question 20:

The Executive would welcome views on the detailed proposals of the Group of local authority and adoption agency procedures, particularly on the issue of independent appeals and complaints. (Recommendations 88-89)

It is considered that the present Review Panel system operates well in North Lanarkshire Council but is recognised that this may not be the case with smaller authorities.

The Council notes its current practice at its Adoption Panels is that where birth parents do not have to be in attendance at Panels it must be ensured that their views are represented. Young persons should be able to attend if appropriate, depending on their age and maturity.

North Lanarkshire Council already meet most of the Scottish Executive recommendations.

Access to Information

Question 21:

The Executive would welcome views on the proposal that medical information about birth parents and families should be shared, without consent, to plan properly for a child.

Particular issues include: what sort of information could be shared; who could have access to the information; and whether any information should be communicated to the adopted person or the adoptive parents. (Recommendations 103-106)

The Council supports the recommendation made by the Executive. It believes it necessary to allow the release of medical information about birth parents in permanence cases, with or without consent, where this is required to plan for the child. The best person to decide on who should be privy to this information would be the child's doctor. The child's doctor would hold the information on the child's medical record that should go with the child in a permanent placement.

Conclusion

North Lanarkshire Council recognises that the recommendations of the Adoption Policy Review Group and subsequent Scottish Executive proposals opens the gateway to a major overhaul of Adoption Legislation. The Scottish Executive aims to modernise and improve the law by speeding up the system, introducing new legislation and increasing the pool of families available to children.

The changes anticipated are welcomed by the Council. They are thought to have the potential to significantly improve the lives of some of Scotland's most vulnerable children.