Northern Ireland Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Adoption and Children Bill: Department of Health

13 January 2022

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Paula Bradshaw
Mr Gerry Carroll
Mr Alan Chambers
Mrs Deborah Erskine
Ms Órlaithí Flynn
Mr Colin McGrath
Ms Carál Ní Chuilín

Witnesses:

Ms Eilís McDaniel	Department of Health
Ms Frances Nicholson	Department of Health
Mrs Julie Stephenson	Department of Health

The Chairperson (Mr Gildernew): I welcome, by StarLeaf, Eilís McDaniel. Can you hear us, Eilís?

Ms Eilís McDaniel (Department of Health): I can indeed, Chair. Good morning.

The Chairperson (Mr Gildernew): Good morning. Eilís is joined by Julie Stephenson, head of the Adoption and Children Bill team. Can you hear us OK, Julie?

Mrs Julie Stephenson (Department of Health): I can. Good morning.

The Chairperson (Mr Gildernew): Thank you, Julie. We hear you loud and clear. Frances Nicholson, social services officer, can you hear us OK?

Ms Frances Nicholson (Department of Health): I can indeed. Thank you.

The Chairperson (Mr Gildernew): You are welcome to the Committee. All of you have been with us before, but we welcome your attendance this morning, and we look forward to your presentation and your answers to questions from members on this very important — I think that we all agree that it is — and long-awaited Bill. There is huge interest in it.

I will go back to Eilís. Is it you who will make the opening remarks?

Ms McDaniel: It is, Chair. I thank the Committee for the opportunity to provide further briefing on the Adoption and Children Bill. The Committee wrote to the Department on 18 October, seeking its views on the issues raised by stakeholders in their written submissions in response to the Committee's call for evidence on the Bill. The Minister provided a written response on 29 November, indicating that the Department would review the policy position in relation to six areas of concern that were raised in respect of five clauses, with a view to deciding whether any amendments should be tabled during the Bill's Consideration Stage.

Following completion of that review, the Minister wrote to the Committee on 21 December to advise Committee members of his decisions in relation to each matter. In that letter, the Minister confirmed that he intends to table amendments to three of the clauses, which were subject to review, to address issues raised by stakeholders. The Minister also set out his reasons for deciding not to make further amendments relating to the other matters and the clauses reviewed. In addition, the Minister outlined a number of other amendments that he intends to bring forward. With the Committee's agreement, I will provide a brief overview of the amendments that the Minister intends to table and the reasons why, in relation to the three areas of concern, the Minister considers that no further amendment is necessary.

First, I will speak to the clauses that we propose to amend following consideration of the issues raised. I will start with clause 119. Stakeholders were of the view that special guardianship support should be provided for on the same basis as adoption support. The Department reviewed the provision in clause 119, which will create new article 14F of the Children (Northern Ireland) Order 1995, and compared it with the provision in clause 5, which provides for adoption support. One key difference that was identified was that, in the Bill, there is currently no duty on trusts to conduct an assessment of needs for special guardian support services in respect of certain categories of people on request, as there is with adoption support. The Department's intention had been to exercise the power provided in paragraph 3 of new article 14F and, following consultation, to prescribe such categories of people in regulations. However, given the calls from stakeholders for parity of approach with adoption support, the Department will now table an amendment to clause 119, new article 14F(3), to place a duty on trusts to provide such an assessment if requested by or on behalf of children for whom a special guardianship order (SGO) has been applied for or is in place. The duty to provide an assessment will also apply to current or prospective special guardians and to the child's parents.

Placing that provision in the Bill will clearly demonstrate the Department's commitment to ensuring that assessments are undertaken where they are requested and will ensure that the approach for undertaking such assessments is broadly consistent with the provision in clause 5 in relation to assessments of need for adoption support services. We will also retain the provision in new article 14F(3) that enables the Department to prescribe additional categories of persons for whom an assessment must be undertaken on request and to determine what those additional categories of person should be. We will capture and monitor the nature and range of special guardianship support needs in implementation.

Stakeholders suggested that clause 132 of the Bill should be amended to more clearly reflect that advocacy services will be independent of the trusts. To address that, the Department will table an amendment that will insert the word "independent" into the heading of that clause and into the heading of new article 45A, which is to be inserted into the Children Order. We do not propose amending the wording of the clause. While the advocacy clause does not specify that they are independent services, the clause contains regulation-making powers that allow the Department to specify who may not provide advocacy services. It is intended that that provision will be used to ensure independence by specifying that services may not be provided by persons linked to the service that is the subject of representations for which advocacy is being provided.

The Bill provides a further regulation-making power that requires trusts to:

> *"monitor the steps that they have taken with a view to ensuring that they comply with regulations made for the purposes of"*

ensuring independence. I assure the Committee that that does not mean that a trust cannot provide advocacy services. We will make it clear in guidance, however, that, where a trust does provide advocacy services, no person associated with the case under consideration — either directly or in line management terms — for which advocacy is being sought can have any part to play in providing advocacy services.

Clause 133 — "Definition of harm" — amends the definition of harm in the Children Order to include a child's seeing or hearing the ill treatment of another person. As a result, courts, the police and trusts will be required to consider the effect on a child of witnessing domestic abuse when they make critical decisions about the child's protection, care or upbringing. In response to representations made by a number of stakeholders and by Members during the Second Stage debate on the Bill, the Minister gave a commitment to consider extending the provision to include cases in which a child is adversely impacted by such abuse even if they have not seen or heard it taking place. Following consultation with counsel, the Minister decided to amend clause 133. As a result, the definition of harm in the Children Order will be amended to read:

> *""harm" means ill-treatment or the impairment of health or development including, for example, impairment suffered from seeing, hearing or being present during the ill-treatment of another and the question of whether harm is significant shall be determined in accordance with Article 50(3)".*

That brings the definition of harm in the Children Order more in line with the Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021. Although it does not follow the format of the provision in the 2021 Act in full, it delivers the desired effect without compromising the definition of harm in the Children Order, the primary focus of which is on physical, sexual or emotional harm caused directly to a child.

I will move on to the clauses that, following review, the Minister has decided not to amend: clause 5 and clause 119. Stakeholders expressed concern that clause 5 does not place a duty on the trusts to provide adoption support services that may be identified as needed following an assessment. Likewise, as mentioned earlier, stakeholders were of the view that special guardianship support should be provided on the same basis as adoption support. We reconsidered the policy underpinning clauses 5 and 119 and decided that they remain the best way in which to proceed in policy terms. The clauses already provide a power for the Department, by way of regulations, to specify categories of people to whom the trusts must provide the support that has been assessed as needed. They could include, for example, the adoptive parent, the adoptive child or, for special guardianship support, the child in respect of whom an SGO is in force and the special guardian. The Department's reason for providing the power to specify the requirements in regulations was to give trusts initial flexibility to decide in all cases whether to provide the services assessed as needed. We want to ensure that social workers can target their valuable resources where they are needed most. Trusts are best placed to decide on the basis of assessed need how best to provide support. The Committee will be aware that that is the basis on which most health and social care services are provided.

SGOs will provide a new permanence pathway for Northern Ireland. It is difficult to predict the extent to which such orders will be sought and the support needs of those who will seek them. As part of implementation, the Department will capture and monitor the nature and range of support needs for adoption and special guardianship to determine whether, at a future point, to use the new powers to prescribe categories of persons for whom a trust must provide services assessed as needed.

It is worth noting that the Bill includes at paragraph 1 of schedule 4 transitional provision to amend the Adoption (Northern Ireland) Order 1987 to enable important elements of the new adoption support services framework to be implemented in advance of the Bill's implementation. Using those powers, the intention is to implement the first phase of the adoption support services framework as soon as possible. It is anticipated that the regulations that would be made under the 1987 Order would give adoptive families, including children placed for adoption, adopted children, prospective adopters, adoptive parents and their children, an entitlement to receive an assessment of their adoption support needs and give related persons, such as a natural parent, a relative or any person with whom the child has a relationship that is beneficial to the child, an entitlement to receive an assessment for support or contact arrangements.

It is also intended that the regulations will require trusts to make arrangements for the provision of a range of adoption support services, including financial support, therapeutic support services, assistance to ensure the continuance of adoptive relationships, including respite care, and assistance for contact arrangements. The early implementation of elements of adoption support services and the monitoring arrangements that we will put in place will inform any decisions on whether the Department should exercise its powers by way of regulations under clauses 5 or 119 of the Bill to place a duty on trusts to provide adoption or special guardianship support services that have been assessed as needed, and specific categories of person.

The Department agreed to consider whether it would be appropriate to amend clause 128 to insert new article 34DA(4) into the Children (Northern Ireland) Order 1995 and to provide that the payment

received by a former foster carer under the Going the Extra Mile (GEM) scheme should be in line with fostering allowances. The Minister decided not to make such an amendment on the basis that it would be difficult to define in legislative terms given the number of possible funding permutations. Rates and payments available as part of the GEM scheme are set out in guidance developed by the Health and Social Care Board (HSCB) and are dependent on the circumstances of each individual case. The calculation of former foster carers' allowances under the scheme would not be straightforward, and there are a number of scenarios in which allowance rates may be impacted because of individual circumstances. The GEM scheme guidance will be updated by the Department as part of the implementation of the Bill, and the rates and payments available will continue to be set out in that guidance.

In his letter dated 21 December, the Minister also advised the Committee of his intention to table a number of further amendments to the Bill. I will start with the removal of references to the Health and Social Care Board. As members will be aware, the Health and Social Care Bill, which makes provision for the regional Health and Social Care Board to be dissolved, has now completed its Final Stage in the Assembly and is awaiting Royal Assent. The Adoption and Children Bill needs to be amended to remove references to the regional board. Clause 3 will be amended to remove the regional board from the definition of an adoption authority, and each health and social care trust will continue to be the adoption authority in its area. Clauses 144 to 150, which relate to the Northern Ireland Adoption and Children Act register, will also be amended to substitute references to the regional board with references to the Department. Finally, the definition of the regional board will be removed from the interpretation section that is provided in clause 158 on the basis that such a definition will no longer be required on the dissolution of the HSCB.

Clause 42 provides a power to the Department to prescribe in regulations the matters to be taken into account by an adoption agency in determining or making any report on the suitability of any persons to adopt a child. In accordance with clause 155, the negative resolution procedure would apply when making those regulations. During the debate at Second Stage, Jim Allister MLA suggested that such regulations should be subject to affirmative resolution rather than negative resolution as he considered the suitability of adopters to be too important an issue not to be debated by the Assembly. Having further considered the matter, the Minister agreed that clause 155(2) should be amended to include regulations made under clause 42 and the list of regulations that will be subject to the affirmative resolution procedure. That will be consistent with the approach being taken with other regulations to be made under clause 98 relating to individuals who may not prepare reports about the suitability of a child for adoption or of a person's suitability to adopt a child.

In order to give effect to the first part of recommendation 4 of the report of the truth recovery design panel, which was published on 5 October 2021, counsel has been instructed to draft a clause for inclusion in the Bill that will compel holders of records relevant to mother-and-baby institutions, Magdalene laundries and related institutions to preserve and not destroy those records. The clause will include offences, with associated penalties for non-compliance.

Access to information was one of the key themes that emerged from the work of the truth recovery design panel. It was identified as an issue for victims and survivors very early in that process. Officials have met the group of victims and survivors of mother-and-baby institutions on a number of occasions to discuss, in particular, the provisions in the Bill that relate to the disclosure of information. It is seeking a number of amendments to be made. I understand that it has also written to the Committee to set those out, which you reflected in your opening remarks, Chair. The Minister has agreed to consider three amendments, and we are engaging with counsel on their wording. Two of the amendments relate to clause 102, which makes provision for pre-commencement adoptions. The intention is to extend the regulation-making powers to enable the Department to include, in any regulations to be made under clause 102, new provisions relating to the disclosure of information for pre-commencement adoptions. That would enable all provision to be included in one set of regulations, rather than continuing to rely on the Adoption Agencies Regulations (Northern Ireland) 1989, which are now more than 30 years old. It would also enable the Department, in consultation particularly with victims and survivors of mother-and-baby institutions, to agree more acceptable wording. Some have expressed concerns about the wording in the 1989 regulations. Counsel has advised that, although the general regulation-making powers in clause 9 would be sufficient to allow the Department to do that, it would, for clarity, be preferable to amend clause 102 to include a specific regulation-making power. The Department also intends to amend clause 102 to extend intermediary services to allow assistance to be provided to the natural parents of an adopted person who wishes to obtain information from an adoption agency about the adoption. As currently drafted, intermediary services for such individuals are restricted to facilitating contact.

The third proposed amendment is to schedule 2. The Registrar General is required to advise any adopted person who is seeking access to their birth record that a counselling service is available to them. However, under paragraph 4 of schedule 2, people who were adopted before 18 December 1987 are required, rather than being given the option, to attend a counselling interview before the Registrar General can provide the information. Some victims and survivors of mother-and-baby institutions consider that that should not be the case and that they should be treated in the same way as other adopted adults and have the right to decide whether to avail themselves of such counselling services. Taking account of that, the Department has engaged with the Registrar General's office on the matter. It is clear that process changes will be necessary to support that amendment. There are concerns about those individuals seeking a copy of an original birth certificate who may not be aware that they were adopted. While that is the case, the Department has decided that, on balance, it should bring forward an amendment to remove paragraph 4 from schedule 2. The duty on the Registrar General under paragraph 2 of that schedule to inform adopted adults of the availability of counselling services will continue to apply. It will be for the adopted adult, regardless of when they were adopted, to decide whether to avail themselves of counselling services, and from whom. Where a counselling service is sought or requested, there will continue to be a requirement to provide it.

We will ensure that victims and survivors of mother-and-baby institutions and others with a specific interest in access to adoption information are fully engaged in the process to develop any regulations to be made as part of the implementation of the Bill that provide for the disclosure of information for pre-commencement adoptions and intermediary services. We will also continue to work with them to agree practice guidance for adoption agencies on the sharing of information from adoption agency records to ensure that there is a consistent approach to the disclosure of adoption information across all adoption agencies. We have engaged an independent lawyer, who is a data protection expert, to assist with that work.

Finally, the Minister advised the Committee of his intention to table a number of amendments that are technical but consequential in nature. Clauses 25 and 26 set out rules for applications for other orders during the period in which a child is placed for adoption or the adoption agency has authorised to place the child for adoption under article 16, or where a placement order has been made. Both clauses include references to applications for SGOs stating whether an application has been made for an adoption order. Any person wishing to apply for an SGO during that time must seek the leave of the court to make such an application. If a child has been placed for adoption and an adoption order has been applied for, the child will have been living with the prospective adoptive parents for a period. Officials therefore considered that it would not be possible for another individual to meet the one-year residence requirement for making an application for an SGO. On that basis, counsel was instructed to amend both clauses. Counsel has, however, now identified a very narrow set of circumstances under which an individual could meet the requirements. As a result, it is considered that the existing provisions in clauses 25 and 26 should be retained, and no amendment to those clauses will be tabled.

The Department has determined, on the basis of legal advice from the Departmental Solicitor's Office (DSO) and the Office of the Legislative Counsel, that outdated legislation giving effect to an international adoption convention that is no longer in operation — the Adoption (Hague Convention) Act (Northern Ireland) 1969 — should be repealed. The amendment will insert provision in schedules 4 and 5 to the Bill to repeal the 1969 Act and to insert saving provisions to ensure that the future rights of anyone adopted through a convention adoption order under the 1969 Act will not be negatively impacted by its repeal.

The Department has agreed with the Department of Justice that a consequential amendment should be made to paragraph 6 of schedule 2 to the Access to Justice (Northern Ireland) Order 2003. The amendment will provide that legal aid services will not be funded for the provision of advice, assistance or representation to any children's court guardian for the purpose of proceedings under clause 106 of the Bill. Such an amendment will ensure that there is consistency of approach to children's court guardians, be they appointed under the Children Order or under the Bill.

Chair, that concludes my summary of the amendments that the Minister intends to table at Consideration Stage. Work is ongoing with counsel to draft the amendments, and those will be shared with the Committee as soon as possible to enable the Committee's report to be completed.

I would like to emphasise to members that, while the Bill provides the overarching framework, the detailed operational arrangements required to give effect to its provisions will be set out in subordinate legislation. Approximately 20 sets of regulations will set out the arrangements governing the operation and practice of adoption agencies, health and social care trusts and the General Register Office

(GRO). Those will make detailed provision on key elements of the Bill, such as adoption support; special guardianship orders; care planning; disclosure of information to adopted people and others; inter-country adoptions; and the operation of the independent review mechanism (IRM). The Bill also provides for the making of court directions and rules of court. Subordinate legislation and associated guidance will be brought forward in distinct phases post implementation and will be timed in accordance with the commencement of the relevant provisions. The intention is that we will work closely with key stakeholders throughout the drafting process.

A full public consultation will be undertaken on all subordinate legislation to be brought forward. All statutory rules will also be subject to Committee scrutiny. Committee members will therefore have the opportunity to provide input to the subordinate legislation, thereby shaping how the Bill will operate in practice following Royal Assent. Also, statutory rules made under the affirmative procedure will be subject to debate by the Assembly. I thank members for their patience. We are now happy to answer any questions that you may have.

The Chairperson (Mr Gildernew): OK. Thank you, Eilís. I acknowledge that there is a huge amount in the Bill, and that is one of the issues with it. I will try to be as succinct as possible with my questions. I will then go to members. I ask everyone to be as succinct as possible, because there are a lot of areas to get through. I have a quick question on the amendments. When can we expect to see the draft text of those?

Ms McDaniel: A number of the amendments have been drafted. Some are in the process of being drafted. As soon as all the amendments are complete, we will get them to the Committee as soon as possible. I will ask Julie whether she can be more specific than that.

Mrs Stephenson: From liaising with the Committee Clerk, I understand that the amendments are needed by the week after next to inform the clause-by-clause consideration on 24 January. We aim to have the amendments with the Committee by Friday 21 January, if that is OK.

The Chairperson (Mr Gildernew): The sooner, the better, Julie. I appreciate that.

Clause 69 states that a child:

"who was born illegitimate and who is adopted by one of the natural parents".

I am shocked to see that type of language in this day and age. I take the view that there is no such thing as an illegitimate child, to be quite honest. Why is that terminology being used? It was raised in evidence. In the circumstances, is that terminology sensitive. Could alternatives be looked at?

Mrs Stephenson: That matter was raised in the consultation, and, following consultation, we raised the issue with counsel. It is not simply a matter of the use of language; there are implications across the statute book. It is not just a matter of changing the language in the Adoption and Children Bill. Changing the language is probably beyond the scope of the Bill. I assure you that we considered doing that. We sought advice, and the advice is that, because of the wider implications, the change is not possible solely within the Adoption and Children Bill.

The Chairperson (Mr Gildernew): OK. I will move to the area of the support provided following an assessment. How much has been earmarked to provide services following any assessment?

Ms McDaniel: I will rely on Julie and Frances to come in behind me with more detail. The headline figure is that we have bid for around £14·8 million over three years to provide adoption support and special guardianship support services. If necessary, we can set out exactly how that figure has been broken down and the assumptions that we have used to arrive at that figure. That is the headline figure over three years starting in 2023-24, which is when we intend to start rolling out enhancements to the adoption support services. Julie and Frances, do you want to say anything further?

Mrs Stephenson: Our costings have been very much based on the assumption that support will be provided for the child and for the adoptive parent or special guardian. The element for adoption support is in addition to the existing funding provided for adoption allowances. The special guardianship support has taken into account that, because of our one-year residence requirement, we expect that the number of special guardianship applications will rise. In the first year, we do not,

because of that residence requirement, expect large numbers of those applications. That number will increase gradually over the three years.

We also plan to keep the types of support that are available very consistent between adoption support services and special guardianship. Support will include therapeutic care, support for maintaining the placement, support in relation to contact arrangements and, in particular, support for the provision of adoption counselling for birth parents.

The Chairperson (Mr Gildernew): OK. I wanted to get a bit of context, but I am keen to understand why there cannot be a duty on the Department to provide services based on the assessment. I declare an interest — previously, I was a social worker — and I liken this to carers' assessments, whereby there is a duty to provide a carer's assessment but no duty to provide for the needs that are identified within that. That has a kind of chilling effect on the number of assessments that are done, because people understand that the assessment will not necessarily lead to anything. I also put that in the context that these are some of the most vulnerable and most disadvantaged children in our system and that there are a finite number of them. It is a smallish number in the greater scheme of things. Why can we not include a duty to provide those services to those very vulnerable children and the families around them?

Ms McDaniel: I tried to set that out in my opening remarks, Chair. The thinking is to try to provide some initial flexibility to trusts and — you referred to carers' assessments — to create some level of parity with existing arrangements in terms of how we assess and what we do on the basis of those assessments. I referred to the fact that we have powers in the Bill that we can exercise, and those powers would do what you suggest needs to be done, namely the creation of a duty to provide on the basis of an assessment. We have agreed to keep everything under review and to monitor who is being supported and with what, and that relates to both adoption and special guardianship. We will determine, on the basis of that, whether to exercise powers to require the provision of services to specific categories of people, whom we would name in regulations. There should be some initial flexibility and parity with other service provision but with powers in place to make that a requirement, if we consider, on the basis of monitoring and review activity, that that is necessary

The Chairperson (Mr Gildernew): OK. I will move on. I want to ask you a question on behalf of one of the young people whom we met about this issue last week. The young person's question was this: if SGOs become law, will that mean that an SGO could remove a child from a care family against the child's wishes? What are your thoughts on that, Eilís?

Ms McDaniel: The views of the child or young person will be central to everything that is done under the Bill, and that is why, for example, we have introduced advocacy services on a statutory basis. I would find it very difficult to accept that, if a child was so adamant that they did not want to be removed from a care arrangement and be placed in a special guardianship arrangement, that would be imposed upon that child. I would be incredibly surprised if that happened, Chair, but I want to assure you that seeking the views of the child, listening to what children and young people have to say and providing them with that advocacy support in the process will be central to everything that is done, as is currently the case under the Children Order.

Mrs Stephenson: The special guardianship regulations will set out all the matters that have to be considered and presented in the court report to enable the court to decide whether to make the special guardianship order. One of the issues in that is reflecting the wishes and feelings of the child in the making of such an order. The trusts will be required to take account of the child's feelings and present those to the court for consideration as part of the decision on whether to make such an order.

Ms McDaniel: The other thing to add is that an additional safeguard in Northern Ireland is introduced — the panel arrangement — which is not present elsewhere. That is where a trust's report in relation to a special guardianship order will be subject to examination or review by a panel. Again, that is another check and balance and an extra safeguard that we have introduced into the system for SGOs in Northern Ireland, for the reasons that that young person has stated.

The Chairperson (Mr Gildernew): OK. I have one final question before I go to members. Given that Deborah might have to leave, I will go to her first.

Eilís, you mentioned a couple of times that the Department will need to implement over 20 sets of regulations after the Bill is enacted. How long will it take the Department to bring those forward?

Ms McDaniel: We have already done some phasing work. I will rely on Julie to provide details. In general, phasing will happen over three years, starting in 2023-24 and taking us up to 31 March 2026. We are very clear, by way of the phasing schedule, which regulations will be made in each of phase. Again, this is all set out, and, if it helps the Committee, we are very happy to provide that information. There are three phases over three financial years, and we are very clear about which regulations will be made in each phase. Do you wish to add to that, Julie?

Mrs Stephenson: In phase 1, for example, we will move as quickly as possible to implement anything that does not require regulations for guidance. For example, the definition of harm will probably be commenced very quickly. As Eilís mentioned, we will do the early transitional regulations in order to introduce some elements of the adoption support provisions.

Phase 2 will probably focus on a number of different regulations for some of the Children Order amendments, including for foster panel regulations and commencing the children in need guidance — for example, the children in need provisions around article 18 payments and short breaks. We will also work on the adoption framework as a whole. It is interlinked, and about 10 sets of regulations are required to be made to give effect to the whole adoption framework under the Bill. It is quite a big piece of work, which is why it is in phase 2.

The final phase will probably include special guardianship orders and care planning regulations. Although work will commence on those elements at the very start, their complexity and the need for full consultation mean that we hope to have those ready by the beginning of phase 3. The Adoption and Children Act register will be in place towards the end of that phase, given that that database is already operational on a non-statutory basis. We will also carry out the design and implementation of an independent review mechanism.

The Chairperson (Mr Gildernew): OK, thank you.

Mrs Erskine: I thank the panel for its evidence. This is an important Bill, and it has been a long time coming. The Committee has heard very powerful evidence. I want to touch on funding, which the Chair mentioned. The Minister has indicated that while the business case for the Bill has been approved by the Department of Finance, it will not be revisited until the Bill achieves Royal Assent. How will the amendments outlined affect annual expenditure, and will a failure to explore those issues now lead to delay in implementation?

Ms McDaniel: You are quite right, Deborah, that the business case has been developed at a very high level and needs to be developed further. I assure you that we have already flagged that and submitted bids for funding to support the implementation of the Bill under the three-year spending review exercise. For example, a bid has already been submitted for 2023-24 to support the implementation of adoption support services. I do not know whether that answers your question sufficiently, Deborah.

Mrs Stephenson: We considered whether additional costs would arise from the amendments. The only one with a potential cost implication was the duty to undertake assessments for special guardianship support. We had already costed that, because our intention had been to set those requirements out in regulations anyway, using the powers in the Bill. We had already costed that on the basis that such assessments would be carried out. The amendment will not therefore incur any additional financial cost in that regard. The other amendments — for example, the amendments to the definition of harm and to advocacy — will not incur any additional expenditure that requires the business case to be revisited at this stage.

Mrs Erskine: As a result, you do not envisage any delay in implementation, from a financial point of view or otherwise. Is that correct?

Ms McDaniel: It is all subject to bids being successful etc, and, obviously, it needs to be considered in the round when it comes to wider health and social care budgetary requirements. Bids have been made. Those are all subject to further consideration and approval.

Mrs Erskine: OK, thank you.

The Chairperson (Mr Gildernew): Do you have anything else to ask, Deborah?

Mrs Erskine: No, that is me, Chair. Thank you.

Ms Ní Chuilín: Happy new year, Julie, Eilís and Frances. Eilís, may I ask you to adjust your screen? Some of those who are *[Inaudible owing to poor sound quality]* hearing impairment, and I can see you only from your nose up.

Ms McDaniel: Apologies, I cannot see myself.

Ms Ní Chuilín: Thanks for your input. In the process of proposing amendments, will you consider, if you have not already done so, the definition of harm in the Domestic Abuse and Family Proceedings Act? The amendment goes a bit further, but, in my opinion, it still is not definitive. That Act says that children do not necessarily have to witness or hear domestic violence and that the impact of domestic violence and abuse is transferred to children through intergenerational trauma. May I ask you to do that by way of comparison? That would be helpful.

I turn to my second point. I appreciate that there is a timescale for bringing forward amendments for our clause-by-clause consideration. Although the current legislation does not say that all contact stops once someone is over 21, according to custom and practice, if a young person is not in further education until the age of 24, the contact becomes intermittent. Some young people who had come through care and were now studying felt that that was not the case, even with Going the Extra Mile. It was sporadic across the board. One trust, possibly the Western Trust — I do not want to misquote, so I will caveat that — said that it was resource-dependent. I would like us to look at that. Also, it is stated that there will be a six-month review, but in what format? Will it be a matter of simply following good practice, or will it be statutory? Will there be an annual review?

Chair, I will leave it there. I appreciate that we have a lot to get through.

The Chairperson (Mr Gildernew): Before you come back in, Eilís, I want to say that there is a buzz on the line. I thought that it had subsided. It might be a fan or something within someone's device, and, if so, nothing can be done about it. There is a buzz in the background. If anyone can identify where it is coming from, please do so. Otherwise, we will tear on. Back to you, Eilís.

Ms McDaniel: OK. Carál's first point was about the definition in the Domestic Abuse and Civil Proceedings Act, and we considered that. We looked at that, and we instructed counsel on the basis of that definition. Counsel's view was that this is probably the best way to amend the definition. We need to be careful not to dilute in any way the principal purpose of that definition, which is about the direct harm to a child. It now includes a child being present when domestic abuse takes place and not having to see or hear it. On the basis of counsel's advice, we considered that it is sufficiently broad and inclusive, Carál, and probably the best way to deliver the definition.

Carál's second point was about maintaining contact with children who have left care. An important provision in the Bill — probably the most important, to be honest — relates to maintaining contact with children over the age of 21 if they are not in receipt of advice or support. The duty is to make contact, to make an offer of advice or support and to continue to make that offer yearly until the young person is aged 25. That, in addition to all the other measures that we have put in place for care leavers, is a critical provision. I hope that that assures you to some extent.

The review that Carál referred to is the pathway planning review that the current legislation requires to be undertaken every six months. We have not made any changes, and that will continue to be the case. I will put my hands up and say that it is not without problems. There are some issues with it. The Health and Social Care Board plans to undertake a review of leaving and aftercare services to look at things like operating models, how they plan etc, and demand and capacity issues within those services. There is, depending on the outcome of that review, the potential for further changes etc to be made. Quite a lot that is happening, within the Bill and outside of the Bill, is designed to provide better support for children who have left care.

The Chairperson (Mr Gildernew): Were there other issues, Carál, that you raised?

Ms Ní Chuilín: No. The pathway review is after six months. I am sorry; I did not make that clear. In the implementation of the Bill, will an annual review be done, and will it be done on a statutory basis?

Ms McDaniel: A review of how we are implementing it, Carál? Is that what you are asking? Such a review is integral to implementation. We need to review it continuously. An implementation framework will be put around all this, if I can describe it in that way. It will be supported by implementation plans

etc, and we will keep those plans under review and subject to monitoring to ensure that we are keeping to the plan and to the three-phase approach to implementation that we referenced.

Does that answer your question?

Ms Ní Chuilín: Yes.

Mrs Cameron: I thank Eilís and the rest of the panel for their attendance at the Committee as we discuss this important subject. It is a large and complex Bill, so we appreciate it.

Carál asked about the definition of harm to a child and bringing the Bill into line with the domestic abuse legislation. That is constructive and good. You say that you got legal advice on that wording. For clarity, if that is the case, have you spoken to the sector, which will be concerned to see that the wording meets its needs? The sector must be confident that the definition deals with that issue.

My second question is about the Department's rationale for not going further in amending the Bill in some areas. It relies on its powers to make regulations to address those points. What assurances can the Minister provide that the consultative process for the development of those very important regulations will be accessible, far-ranging and inclusive, especially given the effective yes/no function of the Assembly in the process. I understand that it is a very large Bill and that much more detail will follow in regulations. It would be good to hear how that will be done in the months and years ahead, given the importance of the subject.

Ms McDaniel: I have made the point, Pam, that we fully considered the domestic abuse legislation in deciding how best to amend the definition of harm in the Children Order. The clause is the one that counsel recommends as the best way forward. I do not think that we have shared the amendment to that clause with stakeholders, but we are happy to do that between now and when the clause comes to Committee.

On your third issue, our intention is to be as inclusive as possible in the implementation. Certainly, that has been our approach to the development of the Bill. For example, we had a stakeholder group established, and it was consulted every step of the way. That is our intention in the implementation of the Bill too, so we can provide assurance on that point. The stakeholder group will obviously include children and young people, and, where relevant, parents and carers.

Mrs Cameron: That is very useful, Eilís. Thank you. We would very much appreciate your sharing with the sector the wording of the amendment to the definition of harm. It is important to get its feedback. Thank you for your reassurance on going forward with the regulations. That is vital. Obviously, the sector is desperate to see this legislation come into effect, but we all understand that there is an awful lot of detail missing from it and that that will come in the regulations. That process of engagement with the sectors involved is vital, so thank you for that.

Ms Bradshaw: Thank you, panel, for coming to the Committee this morning. I have a couple of issues that are sort of related to the amendments. They are issues that have come up in some of the evidence sessions and that have been raised with me. Apologies if you do not have the answer, but I want to raise them with you.

The first is access to adoption records, and I welcome the movement on that. I note that, in the past 24 hours, the Irish Government have introduced the Birth Information and Tracing Bill, which affords adopted people the automatic right to access, from the age of 16, their birth certificate and information about their early life. The Adoption and Children Bill cites 18 as the age at which the process of application to see birth certificate starts. To what extent will you look to what is happening in the South? People move either side of the border for work or personal reasons, and this may come up as an issue in the future.

The second part of that is access to early life information. This came up a lot with adoptive parents asking how they can settle their children through transition periods: for example, when they tell their story in P1 and become aware of who they are. Adoptive parents felt that there were deficiencies and certainly a postcode lottery in support for them in how they can work on the life storybook process.

I do not think that this is within the scope of the Bill, but I want to raise it: the cliff edge that some self-employed foster parents face. They wanted to stress that this is not about the money; it is about financial security. A foster parent receives an allowance or money to cover costs, and, as soon as they

become an adoptive parent, they no longer receive that. The last thing that self-employed adoptive parents want in the first few weeks or months of receiving a child or children into their home is to be worried about financial implications and scrambling around for extra business or part-time work. They should not be worrying about financial security at that time They raised the issue of that cliff edge, and they were embarrassed to do so, but nobody should be embarrassed in that situation. We want to give children the best possible start when they move into adoption.

The final issue that I want to raise is on special guardianship orders. Constituents who came to me were given an order to look after their grandchildren. This was in circumstances where their child had died. The father of the children then applied to change the contact arrangements, which were an order of the court and prescribed by a social worker. When the father kept going back to try to change the contact arrangements, it was up to the grandparents, who are retired, to cover their legal costs. Their costs are up to the mid teens of thousands of pounds because, every two years, they have to challenge what the court says. When parents who have their children removed challenge any orders, how can the people who are actually looking after the children be supported financially and practically by the state? Effectively, they are seeing out the state's orders. I hope that that makes sense.
I wanted to raise those issues. I am not sure whether you will have a response now, but they are certainly on my radar.

Ms McDaniel: Paula, I will start with your first point on the legislation that has been introduced in the South. The Birth Information and Tracing Bill was published only yesterday. We have looked at it, and we noted the age difference for access to birth information. I will make the point that access to birth information has been in place here for a considerable time, so it is not being introduced by way of the Adoption and Children Bill. I am not certain why the South has decided to alter the age to 16. We will look at the thinking behind that and at whether any differences between the two jurisdictions justify or even require it.

I may ask Frances to come in on the second point, which was about access to early life information. That is part of the process of someone getting access to their adoption records, for example. Early life information will be central to that, and support services are in place to assist with some of that. I will let Frances come in in a minute, if she has anything to add on that point.

There are a couple of points to make about the cliff edge Paula. My understanding is that a foster carer who becomes an adoptive parent certainly has the option of getting an adoption allowance in place of a fostering allowance. If that does not happen in all cases, we need to look at why. My other point is that SGOs may provide another route for foster carers, subject to their own decision-making. Although, at the minute, some foster carers can only adopt, an SGO will, in the future, be an alternative route for them to obtain parental responsibility and other things for the child in their care.

Paula, I need to look in more detail at the last issue that you raised to see why that is the case and whether anything can be done about it. On the basis of what you described, it does not seem quite right to me, but we are certainly willing to look at it and, maybe, to provide you with advice in writing.

Ms Bradshaw: I appreciate that. Obviously, it is a very sensitive case, and I am happy to engage with you outside the Committee, Eilís, on the finer detail, because we have an opportunity to address it. There is a lot more detail to it, but it is about the challenge in the courts.

Mrs Stephenson: I will come in on contact for SGOs. When making a special guardianship order, the court will be required to consider whether, to provide clarification of the contact arrangements, a contact order should be made at the same time. Whereas the current order is, possibly, about residence or something along those lines, with an SGO, the court will have the power to set out and clarify the position. We have funded mediation, to be provided by trusts, in support of contact arrangements after the making of an SGO. That might give you some reassurance.

Ms Bradshaw: Yes. I suppose the point is about what happens years later, when the children are older. Again, I do not want to labour the point. At the time, they may be happy with it, but, with the passage of time, they might say, for example, "Actually, I am no longer happy with meeting them in a contact centre. I want them to be able to come to my home". Years later, it is about the spectre of it being challenged at any time, at great cost.

Ms Nicholson: I will come in on that. We envisage ongoing availability of support for special guardians. The discussion about those situations should, hopefully, be easier, because support will be available throughout the young person's childhood. We hope that that will strengthen the support that

those kinds of parents or grandparents get. Reflecting on the question of information for adoptive families, we hope that, with the enactment of the Bill, it will be much clearer. The information that they must be given at the time of placement will be prescribed. We also hope to prescribe that — the detail will be in regulations — later-life letters and life storybooks must be available. We really hope that that will strengthen the information and the regulation on the information that adoptive families should get.

Ms Bradshaw: Thank you.

Ms Flynn: Thanks very much to the officials for coming along today and briefing us on the issue. I want to go back to clause 5, the support services and the decision not to amend that clause by putting a duty on the trusts to provide those services. Eilís, in your briefing, you mentioned that you are allowing initial flexibility for the trusts to use their discretion to decide, after someone has had an assessment, whether they need support. Does the Department know how long that initial flexibility will run for, and does anyone from the Department have any sort of oversight, alongside the trusts, in that process of granting flexibility?

Ms McDaniel: Órlaithí, that kind of feeds into Carál's question about implementation. That will all be part of the implementation of the Bill. Monitoring of what support is provided and to whom will be part of the implementation arrangements, and that will all be led by the Department. The Department will not be part of it; it will be led by the Department. I imagine that we will need to let things run for at least a year, or maybe two years, before we start to make decisions about whether we need to prescribe categories of person in regulations. I assure you that that will be part of the ongoing monitoring that will take place under the implementation of the Bill, which is the point that Carál raised.

Ms Flynn: I understand that. Given that the clause is not being amended to put that statutory duty on to the trusts, could we be more specific or detailed about the length of time that you expect that period of flexibility to run? Obviously, you are giving the trusts the discretion to decide where the support is needed, but the Bill also says that that is done on the basis of need and the availability of services. My concern is this: in certain areas, if services are not available to the trusts locally, will some families and individuals be at a disadvantage in receiving that kind of support? That is why I think that the flexibility with the trusts — the time period — is quite important. I accept that that will be captured in the review process that you are carrying out and that you are keeping it all under observation.

I will move on to my second question, which is about capturing the range of adoption support needs. Was none of that work carried out in the run-up to the formulation of the Bill? Is that starting only now, when you are working with the trusts on the initial flexibility period?

Ms McDaniel: I will take your first point about the potential for services to not be available consistently across the region. You need to bear in mind that, in the Bill, there will be a duty to provide certain services. For example, counselling and advice will be required to be provided, but there is also a power to specify in regulations other services that must be made available. Obviously, that is across all trust areas. Julie referred to some of those services, which include things such as therapeutic services and services to facilitate contact or to prevent adoption breakdowns etc. You need to read that in conjunction with other duties that the Bill creates. When you are monitoring, you will be able to see very easily what is being provided and where, and where those inconsistencies lie. We could come back to the Committee once that monitoring has been undertaken and we know what the outcome is and what it is telling us.

Your last question was about the range of adoption support needs. It was necessary that that be undertaken in order to be able to cost the Bill. Again, I give you the assurance that that was done. Whether the range of services will change over time is another matter. Again, that is something that will need to be kept under review, but we think that we have a pretty broad spectrum of services that will be required to be in place and funding made available for.

Ms Flynn: That is great, Eilís. Thanks very much.

One of the members — it might have been Carál — touched on the implementation framework that will be in place once the Bill is passed. When does that process of work start with Department to plan the framework? Do you need to wait until it passes through the Assembly before you start designing what the framework will look like?

Ms McDaniel: Initial design work has already taken place. That can be provided to the Committee, if it wants it. The phasing work, which covers what is going to be done and when, has been undertaken.

Julie has given you some examples of what will be done immediately and what will be delayed until year 3. Thinking has been done. That, obviously, needs to be developed further, with very precise timescales put against individual sets of regulations etc. That is all part of the implementation process. Julie will start that as soon as the Bill receives Royal Assent. She will be delighted that I have said that and that I have committed her to doing that.

Mrs Stephenson: I actually have a member of staff who has already started to look at the early regulations that will be needed for the transitional adoption support regulations. We appreciate that we want to bring those forward as early as possible in the new financial year, so we have already started to scope out some of the work.

Ms Flynn: That is brilliant. Thanks very much for that. It would be useful, if members are in agreement, if you could share information about the work that has been done up until now on the implementation framework and then, down the line, information about how that observation goes with the trusts in that flexibility period. It would be great to see some of that additional information. Thank you very much.

The Chairperson (Mr Gildernew): Eilís, I think that it is your device that is creating that feedback. It is probably an internal fan. Your device is probably so hard worked; you might be looking for a repair shop or a new device soon. If you could stay on mute when you are not contributing as much as possible, Eilís, that would help.

I want to pick up on the complexity and the extent of the implementation and its critical nature. This is, clearly, a massive Bill. Ideally, any Health Committee would love to have a longer period of time to scrutinise it, but we have also heard significant evidence that the Bill is so long overdue that it is important that it progresses in support of the children we are talking about. Is it possible that we could build in a statutory annual review so that that implementation can be tracked by a Committee or whomever? I think that there is an annual statutory review of the Children Order. Would that be possible? Rather than just saying that we will develop those things after we start implementing them, could that be put on a statutory basis so that there would be an annual review of the implementation?

Ms McDaniel: I would like to take the view of counsel on that, Colm. The Children Order provision that I think that you are referencing has a requirement to produce an annual report. It may not be the same thing; if you do not mind, we will take the advice of counsel on that. I do not know how unusual or otherwise that is in legislation. We will note that, seek advice and come back to you.

The Chairperson (Mr Gildernew): That is fair enough. We will go to Colin McGrath. We will then take a quick point from Carál, and then I think that will be us about finished.

Mr McGrath: Thank you for the presentation. That implementation phase will be quite critical. We met parents, for example, a number of weeks ago, and we were hearing lines like, "You have to fight for everything that you have to get", "It's the charities that are providing the support, but they don't get the information", "There is a lack of continuity amongst the sector by having four social workers across the time that they are working", as well as hearing about the lack of trauma awareness.

There are significant concerns about the processes that are being delivered on the ground. If you are looking at that implementation phase, it would be good to hear how you intend to engage with the sector in order to hear about the problems that people are facing on the ground and how you can implement the Bill to address those problems. That is what adoptive parents and potential adoptive parents are looking for: the hope that the Bill will address a lot of their concerns and the issues that they have experienced.

I echo the remarks about the financial assistance. It is clear that there is a sense that, if you foster, you get lots of help and assistance but that if you move to adoption, that stops. That could be a barrier to some people taking on the role of an adoptive parent and could be counterproductive to what the process is trying to achieve.

Two other issues were raised, and I wonder whether you can let me know how you feel the Bill addresses them. The first is that there is concern about the lack of connectivity between education services and adopted children. There is lots of evidence that adopted children significantly underachieve when compared with their peers. In systems that are in place in some other jurisdictions, grants are available to provide additional assistance and support for young people in their education. Those grants would help to try to address that imbalance. I would like to get some thoughts about

whether there are any clauses in the Bill that would help to address that or allow that to be opened up in the implementation stage.

Another message that came through was about the clear regional disparity between trusts. One trust will deliver a service where meetings happen every couple of weeks, but, in another trust, those meetings might happen every couple of months. People have different experiences depending on where they are regionally. Is there any scope in the Bill or in its implementation to try to address those issues? Thank you.

Ms McDaniel: *[Inaudible.]*

The Chairperson (Mr Gildernew): Sorry, Eilís, you will have to come off mute now. I know that you are doing only what you were asked, but you are still on mute.

Ms McDaniel: Colin, on your first general point, I will say that we have already given the commitment that we will be as inclusive as possible in implementation. Implementation will not involve solely trusts or voluntary adoption agencies. Service users etc will be central and critical to implementation. That is a level of assurance that I am trying to give.

I have two responses to your point about education. That is one of the reasons why we brought forward a strategy for looked-after children jointly with the Department of Education. That recognised just how poorly some of those children do in educational outcomes. That strategy is now in place and is being implemented. It is fully supported by both the Department of Health and the Department of Education.

Some payments for looked-after children are already in place in the Department of Education. For example, a pupil premium applies to a looked-after child. We put other measures in place recently. We are working with the Department of Education through the transformation programme. There is now a looked-after children's champion in Education. That is all done on a joint basis at departmental level and at agency level.

A couple of the Bill's provisions are specific to education. One is a duty on the part of trusts to promote the educational achievement of looked-after children. A second provision is intended to ensure that a trust, when making a decision about where a child will be placed or live, does not unnecessarily disrupt that child's education in the process. Those are two distinct provisions in the Bill that relate to education.

With regard to regional disparity, some of what the Bill intends to achieve is consistency of provision and delivery across the region and within and across trusts. Again, it comes back to the point that a good implementation arrangement and framework should begin to expose some of that disparity if it exists and continues to exist.

Mr McGrath: Thank you. I want to raise two small points. This is my own lack of understanding, so it is just to help me. When a child is adopted, are they considered to be a looked-after child, or an LAC, as they are called, or does the definition change and they are no longer defined as a looked-after child? In other words, as an adopted child, are they not able to avail themselves of support from those funding streams for looked-after children?

I just want to comment on educational achievement. We have had presentations where we have heard concern about the word "promote", because "promote" can mean, "Hey, get out there and do well". That is not necessarily what could make the difference. It may need a lot more than that. It is about tightening up the language around the word "promote". That is just a comment.

Are adopted children considered to be looked-after children and able to avail themselves of those grants?

Ms McDaniel: An adopted child is not a looked-after child. At the point when they are adopted, their looked-after child status falls away. However, you are quite right: the majority of adopted children now actually come through the system for looked-after children. That is why, for example, we have certain support services in place in each of the trusts that are targeted not only at looked-after children but at adopted children. For example, each trust has a therapeutic service for looked-after children and adopted children. It recognises that difficulties that they may have had while being looked after do not fall away when they are adopted.

The pupil premium that I referenced does not, to my knowledge, apply to adopted children. A number of years ago, we tried to promote, to use that word again, the Department of Education's applying that premium to adopted children, but the decision was made not to do it at that stage.

I do not know whether Julie or Frances want to say anything about other services that are provided to adopted children. I am thinking about Therapeutic, Education and Support Services in Adoption (TESSA), for example, which provides training for schools so that they are aware of adoption, what it means and the trauma that might be associated with children who are adopted. A number of measures are in place, Colin, that are intended to support adopted children who have been through the system for looked-after children.

Mrs Stephenson: We have costed that support on the basis that funding will be provided to allow support, such as that in TESSA, to continue for adopted children under the Bill. In the consultation, we received quite a number of suggestions on education issues that are not in the scope of our Bill or that the Department of Health could actually legislate for or make decisions on. However, we shared them with the Department of Education. I understand that they will be considered and kept under review in any joint working between the two Departments.

Ms Nicholson: The only other thing to add is that the joint strategy between Health and Education, to which Eilís referred, also covers children who have been previously looked after. Obviously, children who are adopted have been previously looked after, so it is a way of fitting them into that system as well.

Ms Ní Chuilín: I am seeking clarification on getting access to records. I understand that the Irish Government have taken forward legislation to ensure that people have access to their birth certificates, but, when it comes to the mother-and-baby homes, a decision was made previously that all the records would be closed. If someone was born in the Twenty-six Counties but was adopted in the North, they will have access to their birth certificate but will there be openness and transparency about their possibly being born in a mother-and-baby home and the whole adoption process thereafter?

Ms McDaniel: It is wrong to suggest that access to records is closed, Carál. That is not the case at all. I have heard the word "sealed" used in connection with adoption records, and that is absolutely not the case. The intention — this will become clear in the guidance that is under development — is to ensure that adopted people have access to as much information about themselves as is possible to give and that a supportive process is built around accessing adoption information for people who want to access it. I want to make the point that it is not accurate to say that adoption records are closed, Carál. We are working through a process of ensuring that adopted adults, regardless of when they were adopted, have access to as much information as possible in a very supported way.

I am not quite certain what point you are making about the movement across the border. I note that there is some provision in the legislation that is being brought forward in the South that enables agencies there to make contact with other states; I think that is how it is described. Again, we looked quickly at that yesterday. I want to have a look at it in a bit more detail to see whether there is comparable provision that can be included in the Bill. You will appreciate that we are rapidly running out of time with that. It was noted, and we will look at it.

Ms Ní Chuilín: There was massive criticism, Eilís, about the handling of the archives when the mother-and-baby homes report was published. I want to make a distinction between this process and the handling of the archives in the mother-and-baby/Magdalene laundries report on the adoption process. I want to make sure that, when it comes to the adoption process, access to all the information in the records is seamless. That is what I am hearing from you, but there were issues with the Magdalene laundries/mother-and-baby homes in the South.

Ms McDaniel: There absolutely were issues in the South. We have been following what has been happening there quite carefully and closely. The issue that you refer to relates to the records that were created by the statutory commission of investigation in the South. Access to individual adoption records is a completely different matter, Carál. That is what the Birth Information and Tracing Bill 2022 in the South is intended to deal with.

We have been more advanced, if I can put it that way, in the North in how we deal with access to information. Do we need to do better? Absolutely we do. That is partly why we introduced amendments to clause 102 and removed the requirement for somebody who has been adopted before

1987 to engage in counselling before they can get access to their birth certificate information. It is also why we started the work on the development of guidance. That, again, is quite advanced, but there are still some important issues that need to be resolved as part of that process.

We were in a better starting place than the South, if I can put it that way. We are making further developments and changes to the Bill. There is more to do on the production and issuing of guidance to adoption agencies in order to ensure that when somebody wants access to their records it happens consistently and that they get access to as much information about themselves as it is possible to give.

The Chairperson (Mr Gildernew): Thank you, Eilís. I want to come back to another issue — it was raised during the evidence session. It is about cross-border arrangements.

Grandparents were mentioned when we discussed SGOs, and I am aware that, on foot of a previous session, the Human Rights Commission is looking at that and at what the implications may be. Has the Department done any further work on that? Is it considering doing anything further to address that issue, whereby family members —? Where I live, I know very many people whose grandparents live on the other side of the border. However, they live only a couple of miles away from them, and they are obviously an important part of their lives. Has there been any progress made by the Department on that?

Ms McDaniel: Colm, if I am absolutely honest with you, I am not fully aware of what we are trying to resolve. We have made the point that, for example, a protocol is in place between social services North and South that governs how agencies North and South work with children and families who move across the border or in circumstances where a child is placed across the border. Those arrangements are very clearly set out in that protocol, as is who will do what and what is expected of whom. I am very happy to share that protocol with you if you think that that would be helpful.

The Chairperson (Mr Gildernew): That would be helpful. The issue is that we were told previously that an adoption to the Twenty-six Counties, should it be in the best interests of the child, would be handled under inter-country adoption rules and the Geneva Convention, which are much more complex than the rules that we are talking about. Children here could be disadvantaged as a result of additional bureaucracy. For clarity, that is the issue.

Ms McDaniel: OK. Nothing further has been done on that. You are quite right: if a child is adopted in Northern Ireland from the South, that would constitute an inter-country adoption. That is set out in international law, and it would require a change to international law to make it happen differently.

The only other thing that I can think of on adoption and cross-border cooperation is access to information, whereby it would be easier for an individual whose adoption journey may have taken them across the border to get access to information about them. There might be the potential to put in place a protocol that is similar to the one that I referenced that is specific to child protection or the placement of children across the border. We have not done anything further on that, Colm.

The Chairperson (Mr Gildernew): OK, Eilís. If we require international law to be changed in recognition of the realities of life for children on the island of Ireland, so be it. The Good Friday Agreement, the protocol and all those things need to be considered. I am not sure how those intersect with the Bill, but, hopefully, the Committee will get more information and hear more evidence about that. It is an issue, however, so we need to streamline matters and open up that potential in the interests of those children.

I will leave you with a couple of messages from the evidence session that we did with children. I do so to amplify their voices a bit and to reflect the fact that there was a lot of talk from parents and children about inconsistency of practice. There are some examples of very good practice. They said that some homes do life skills really well but that others do not bother with it at all. We got messages like that. There were also concerning messages about inconsistent social work practice, and some examples of poor practice were mentioned. I will raise that at the first opportunity with those involved, but it is important that we bear it in mind.

I want to flag up two issues in particular. One of the young people went to a course in England, but all the people in her support network were here. She said that she felt that the trust was ready to:

"close my case without a second chance",

because she was now in England. That needs to be considered. If young people travel across these islands, east-west or North/South, the supports should follow them in whatever way works for them.

Valuing young people's expertise was also a theme. One of the young people said something quite profound about having options. He said:

"When you have an option, you have a voice."

That is a really profound statement. It is worthwhile for all of us — you and us — to consider, as we discuss this issue, how we provide young people with meaningful options and discuss them with them. I wanted to amplify their voices to you.

The other important message to come out of that session was that, as some of the young people said, leaving care is not an event but a process. They need to be supported throughout that process. I wanted to raise those points on their behalf. Indeed, I thank them again for sharing their voices with us, which I am sharing with you.

Do you want to say anything in closing, Eilís, or are you content?

Ms McDaniel: *[Inaudible.]*

The Chairperson (Mr Gildernew): You are on mute, Eilís.

Ms McDaniel: I have done it again. There is one thing that I should have mentioned. Thank you for prompting me. On the inconsistency of practice and possibly poor practice that you referred to, as I have indicated to you before, Colm, the plan is to undertake what we are calling a fundamental and independent review of children's services in Northern Ireland. If everything goes according to plan, the review should start at some stage in February. The Minister's intention is to advise the Committee about the review, what it intends to achieve, what it will look at, who will be involved etc. Hopefully, that information will come to the Committee before the end of this month. There will be an opportunity for the Committee to be kept informed and advised of the review while it is happening and when it concludes.

Central to the review will be the voices of not only children but parents. Mechanisms will be put in place as part of the review to engage children and young people. Parents will also be engaged, including parents who may have had experience of child protection services, such as those whose children may have been taken into care or adopted. More information on the review will be with you in the not-too-distant future.

The Chairperson (Mr Gildernew): I am delighted about that. I welcome the review, which is a very important piece of work. I reiterate the fact, which you have reflected, that it is about variations not just in individual practice but structurally across trusts. As I said, there are some really good examples. We clearly want to develop the good examples and roll them out across the system and reduce or minimise the examples of poor practice.

Thank you all for your extensive engagement this morning. It has been a long session, and this is a complex Bill. Thank you for attending, and I wish you all the best in the time ahead. I wish you all a happy new year.

Ms McDaniel: Thank you very much. Happy new year.