

FROM THE MINISTER OF HEALTH



Department of
Health

An Roinn Sláinte

Mánnystrie O Poustie

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Dear *Colm,*

Following the Committee's oral evidence session on the Adoption and Children Bill on 25 November 2021, the Clerk to the Committee, Keith McBride wrote to my Departmental Assembly Liaison Officer seeking information in relation to cross border co-operation on kinship and adoption arrangements and also current practice regarding the provision of support in cases of overseas/intercountry adoption.

This information is provided in Annex A.

Yours sincerely

Robin Swann MLA

Minister of Health



Details of interactions that the Minister or his officials may have had with Southern counterparts regarding cross-border cooperation on kinship care/adoption arrangements and support on the island of Ireland

Kinship Care

The North/South Child Protection Officials group meets regularly with representatives from my Department, the Department of Children, Equality, Disability, Integration and Youth (DCEDIY) and Tusla attending. The group discusses a wide range of aspects of children's social care, including cross-border arrangements for placing looked after children, which can include kinship arrangements. The most recent meetings took place on 26 May 2021 and 6 October 2021. In addition, there are frequent interactions between my officials and their Southern counterparts on child protection related issues outside of these North /South Official meetings as they arise.

There has been engagement at Ministerial and official level in connection with Mother and Baby Institutions and commitments made to work collaboratively as necessary and where appropriate.

International Law

Kinship care arrangements which have an inter-jurisdictional or cross-border dimension must be handled in compliance with international and domestic law. The 1996 Hague Convention on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental Responsibility and Measures for the Protection of Children (**the 1996 Hague Convention**) aims to bring about better co-operation between states so that children's cases, including inter-jurisdictional kinship placements, are handled efficiently and, when necessary, protection measures are put in place without delay to deliver better outcomes for the children involved.

Data on cross-border kinship placements

In January 2019, the latest period for which HSCB statistics are available, 20 looked after children from Northern Ireland were in a kinship fostering placement in the Republic of Ireland. One child was placed in a non-kinship fostering arrangement, whilst 11 children were placed in residential or specialist care placements. A total of 13 children from EU countries outside the UK – which would include the Republic of Ireland - had been placed in Northern Ireland. This figure is based on statistics provided by four Trusts and does not include data for Belfast Trust, although at August 2018 14 children had been placed in that Trust area from an EU country outside the UK. The above numbers do not include separated and unaccompanied asylum-seeking children. As the data does not include a breakdown of which countries the children have originated from, it is not possible to state how many have come from ROI.

North/South Protocol

A North/South Protocol for handling inter-jurisdictional child cases, including kinship placements, has been in place since 2011. Following revision of the Protocol by officials in the Department of Health and in DCEDIY, an updated version was agreed by the North South Ministerial Council Child Protection Officials Group and came into effect from 1

August 2021. Officials from the HSC Trusts and Tusla, the Child and Family Agency in Ireland, also contributed to the updated 'Protocol between Northern Ireland and Ireland for Handling Inter-Jurisdictional Child Cases' (the Protocol). The Protocol will be subject to annual review by relevant authorities in both jurisdictions.

The Protocol provides a framework to assist relevant social work authorities in Northern Ireland and Ireland to work together in relation to children and/or families known to social services who move or are placed across the border.

This includes children known to social services who are:

- in need;
- the subject of child protection assessments/investigations or included on the Child Protection Register or Child Protection Notification System;
- subject to public law orders, voluntary accommodation arrangements, or placements for therapeutic or assessment purposes; or
- missing.

Placements

There are a number of reasons why children may be subject to cross-border placement:

- the HSC Trust or Tusla considers that the most appropriate placement for a child is with family or other connected persons across the border;
- a child's foster carer may want to move across the border and the HSC Trust or Tusla considers that it is in the child's best interests to stay with that foster carer;
- a child may need placement in a specialist residential unit across the border.

In all cases, the placement must be in accordance with international and domestic legislation obligations, as reflected in the Protocol. The placement should either be a recommendation of a Looked After Child Review by a HSC Trust or a consequence of a Statutory Child in Care Review by Tusla where the child's care plan indicates that the intended placement in the other jurisdiction is in the best interests of the child.

Case Management

When it is proposed to place a child in the other jurisdiction, an inter-jurisdictional, multi-disciplinary planning meeting involving key individuals from the placing and receiving authorities is arranged and chaired by the Chairperson of the Looked After Child Review/Statutory Child Care Review which recommended the placement. Originating and receiving authorities are required to consider each case and agree review arrangements including, where relevant, potential permanent transfer of parental responsibility to the receiving authority.

The HSC Trust and Tusla (and, where relevant, all persons with parental responsibility for the child) are required to work together to consider the child's care plan and agree arrangements for the placement. This will include taking account of potential child protection risks, ensuring necessary supports for the child and the child's carers will be in place, the duration of the proposed placement, contact arrangements for family, monitoring and review arrangements and an agreed date for the placement to commence. Where possible, there should be a planned period of introduction for the child to the placement ahead of the commencement date. Both the HSC Trust and Tusla are required to notify their respective Central Authority (the Northern Ireland Courts and Tribunal

Service in this jurisdiction) of the outcome of the placement decision and the date from which the placement will come into effect.

The placing authority must ensure it fulfils its duties in respect of placing the child outside of the jurisdiction and that all necessary arrangements are made in advance of the placement. The receiving authority must assure itself that the requirements of the law, including obligations under the 1996 Hague Convention, as they relate to the placement of children, have been met in full by the placing authority. Under Article 33 of the Children Order, the approval of the court is required, before a Trust may arrange for any child in its care to live outside Northern Ireland.

The placing authority must maintain proper records for all aspects of the intended placement. In particular, for appropriate cases, a record of the approval for the placement and caring arrangements must be obtained from all persons with parental responsibility for the child.

Post Placement Arrangements

The placing authority is required to continue to fulfil its duties with regard to monitoring and review of the placement. However, the HSC Trust or Tusla in whose area the child is placed and present will be required to take immediate necessary actions within its area to protect the child if there is imminent danger or risk of significant harm.

The placing authority holds management responsibility for the placement for its duration or, if applicable, to the time at which parental responsibility is transferred.

Neither authority in whose area the child is placed and present should make any change to the agreed placement arrangements without the prior agreement of the placing authority, except in cases where a child is at immediate risk and requires an alternative placement as an emergency measure. Where the authority of the court is required or where a legal remedy is considered necessary to protect the child this should be sought from the court in the jurisdiction where the child is placed without delay.

When children leave care whilst in the other jurisdiction, the placing authority must continue to fulfil its responsibilities. In relation to a young person from Northern Ireland, a HSC Trust must fulfil its responsibilities under the Children (Leaving Care) Act (Northern Ireland) 2002 and the Children (Leaving Care) Regulations (Northern Ireland) 2005. In this regard, Tusla must fulfil the obligations placed on it by the Child Care (Amendment) Act 2015 in relation to aftercare and the planning for same.

Cessation of Placement

If, in the course of its duties, the receiving authority discovers that the child's care plan is not being fulfilled or that there is a risk to the child should the placement continue, the placing authority should be notified immediately. In the event that a decision is taken that the placement must cease in advance of the intended end date, the HSC Trust/Tusla terminating the placement must convene a Looked After Child Review/Statutory Child in Care Review and give as much notice as possible in writing to the other authority.

Adoption of children between Northern Ireland and ROI

All adoptions between the Republic of Ireland and Northern Ireland, whether or not they involve relatives, are treated in legal terms as an intercountry adoption. Although there

have been no adoptions between Northern Ireland and the Republic of Ireland in recent years, any adoptions involving looked after children that might take place in future would be conducted in accordance with the Hague Convention on the Protection of Children and Co-operation in Respect of Intercountry Adoption. The convention has been enshrined in the domestic legislation of Northern Ireland, in the Adoption (Intercountry Aspects) Act (NI) 2001, and of the Republic of Ireland, in the Adoption Act 2010.

The primary benefit of the Hague Convention is that it requires all inter-country adoptions between contracting countries to take place in the best interests of the child and with respect for their fundamental rights as recognised in international law, in particular the UN Convention on the Rights of the Child. It establishes a system of co-operation between countries to prevent the abduction, sale, or the trafficking of children.

The Department, in its role as Central Authority for Intercountry Adoptions (ICA) in Northern Ireland, participates with officials from the Republic of Ireland, Britain, the United States, Canada, New Zealand and Australia in ICA Anglophone Conference Calls. The purpose of these conference calls is to share observations, information and intelligence on countries of origin participating in ICA.

In addition, departmental officials, in fulfilling the Department's role as Central Authority, have had regular contact with officials in the Central Authority of the Republic Of Ireland – the Adoption Authority of Ireland (AAI) - since the 2003 Hague Convention came into force there on 1 November 2010. The most recent discussions with the Chief Executive of AAI took place in March 2021. Separately, my Department's Social Worker Adviser spoke with her counterpart in the Republic of Ireland in March 2021 in relation to a possible future adoption, but to date the relevant HSCT has not decided that adoption is in the best interests of the child in question.

On kinship adoptions, it is rare for a kinship foster placement to develop into an adoption placement, and in recent years there have not been any intercountry adoptions involving a relative seeking to adopt a child living in the Republic of Ireland.

The Department would be prepared, if the need arises, to consider measures for improving the process for adoptions between Northern Ireland and the Republic of Ireland, subject to any measures taken being consistent with the rights and welfare of children being adopted and our commitments under international law.

In the meantime, Departmental officials will continue to remain in contact with counterparts in the Adoption Authority of Ireland to ensure good practice in intercountry adoption under the Hague Convention.

Information on current practice regarding the provision of support in cases of overseas/intercountry adoption, in comparison with that provided for adoption within the UK jurisdiction

Provision of support - Overseas/Intercountry Adoption

Under current law, and in the Bill as drafted, adoptive parents and children are afforded the same rights to adoption support, regardless of whether it is a domestic or intercountry adoption. In particular, clause 2(8) of the Bill makes clear that the adoption service is a comprehensive service that is intended to include both domestic and intercountry adoption. This carries through existing law under Article 3 of the Adoption (Northern Ireland) Order 1987, inserted by The Adoption (Intercountry Aspects) Act (Northern Ireland) 2001.

For Hague Convention adoptions, NI regulations place a duty on adoption agencies to notify a paediatrician and GP of the child's arrival and provide them with a medical report, and to notify the local Education Authority of the placement if the child is of school age or if the agency's medical adviser considers the child to have special needs or to be disabled. Under Chapter 13 of the Adoption Policy and Procedures, the following post-arrival support arrangements apply to all children arriving in NI by way of an intercountry adoption, regardless of whether it takes place under the Hague Convention:

- The child and the prospective adopters are seen by the Trust's Social Worker, the Health Visitor and the GP within 7 days of arrival in Northern Ireland.
- The child and the prospective adopters are seen by the paediatrician within 21 days of the child's arrival in Northern Ireland.
- The Adoption Agency draws up a multi-disciplinary and inter-agency Post Placement/Adoption Support Plan with the adopter within 28 days of arrival, which should be reviewed on a three monthly basis for as long as considered necessary; and
- Most countries require regular post placement/post adoption reports to be made on the progress of the adopted child. Adopters make arrangements with an Adoption Agency for these to be provided.

Thereafter, adopters are encouraged to come forward to seek support as required.

Current arrangements for provision of support – children adopted in other UK Jurisdictions

There is already a statutory framework in place in England, Wales and Scotland under which adoption support services are provided. The rules for provision of such support, including in circumstances where a child is placed for adoption or following adoption subsequently moves outside of the local authority's area, are set out in regulations made under the Adoption and Children Act 2002 and the Adoption and Children (Scotland) Act 2007.

England and Wales

In England and Wales where a child is placed with an adoptive parent living outside the local authority's area, or subsequently if the family moves out of the local authority's area, the placing local authority is responsible for the assessment and provision of adoption support needs identified for a period of three years following the making of the adoption order. Where the three-year period following the making of the adoption order has expired, the local authority where the adoptive family lives will have the responsibility for assessing and providing adoption support services.

The three year period mentioned above does not apply to financial support provided to adoptive families. The placing authority continues to retain responsibility for the payment of financial support agreed before the adoption order is made, for as long as the family qualifies for payments. It may also be appropriate for the placing local authority to make financial support available where the child is living outside England and Wales or outside the British Isles.

In such cases where a child is placed or moves outside England and Wales, even within the UK, the placing local authority may use its powers under regulations to continue to provide support services or contract and pay for the provision of services for more than 3 years after the making of the adoption order. This may be required because corresponding duties or level of adoption support may not be the same in the new jurisdiction. Each case will be considered according to its own circumstances.

Scotland

Similarly in Scotland, a local authority placing a child for adoption retains responsibility for providing adoption support services to the child, his/her birth parents, the adoptive parents and other children in the adoptive family who reside outside the local authority area, for a period of three years from the making of an adoption order. After this point, if the adopted person is under 18 years of age, the local authority where the adoptive family lives becomes responsible for assessing and providing adoption support services. A local authority in Scotland can also provide an adoption support service to persons outside their area after 3 years if they consider it appropriate to do so.

Current post adoption support services in Northern Ireland

There are a number of post adoption support services available to adoptive families in Northern Ireland, regardless of whether the adoption is domestic or inter-country. These include:

- Peer support from other adopters
Adoption UK are contracted by the HSCB to provide support to all adoptive families in Northern Ireland. The services offered by Adoption UK include:

- support groups
 - a telephone helpline and newsletter;
 - provision of information, advice and signposting to other services;
 - pre-placement and post placement training to adopters;
 - peer support for families experiencing difficulties.
- **TESSA (Therapeutic, Education and Support Services in Adoption) Project**
TESSA is a project aimed at supporting families across Northern Ireland who have at least one child between the ages of two and twelve years old, who has been adopted. They are currently funded by the National Lottery Community Fund and the project is delivered as a partnership between Family Routes and Adoption UK. TESSA offers the following services:
 - Therapeutic parenting courses and counselling to parents.
 - A range of first line short term therapies to children, for example, art therapy, equine therapy, music therapy and play therapy.
 - Training to schools in relation to the impact of trauma and attachment issues for children who have been adopted.
- **Trust Post Adoption Teams**
Within each Trust there is a Post Adoption Team. The services offered by the Post Adoption Teams are:
 - family support and intervention;
 - a range of therapies for the adopted child and adoptive family, for example, Theraplay, and life story work;
 - some Trusts offer training on a range of issues, for example, Nurturing and Attachments, and Solihull Approach; and
 - some Trusts, pre-covid, have organised fun days for adoptive families to meet other adoptive families to establish connections and share experiences.
- **Therapeutic Team Looked After and Adopted Children (TTLAAC)**
Each Trust has a TTLAAC team, which is a psychology led, multi-disciplinary, therapeutic team for looked after and adopted children. The service works closely with adoptive and foster parents to support them to provide therapeutic parenting, and build on the relationship with the child. They offer the following services:
 - psychometric assessment;
 - guidance at decision making; and
 - a range of therapies (depending on need), for example, theraplay (such as PACE), Dyadic Developmental Psychotherapy and Filial Therapy (to treat emotional and behavioural difficulties).
- **CAMHs and other specialist services**
The Trust may refer some adopted children to CAMHS or other specialist services.
- **Financial Support**
In certain circumstances, adoptive parents may be entitled to an adoption allowance, for example, if the child has additional needs or if the child has been placed in a foster placement which leads to adoption, or the adoptive placement involves a sibling group. The circumstances are set out in the Adoption Allowance Regulations (Northern Ireland) 1996.

Inter-agency Fee

Adoption agencies in Northern Ireland are recognised under legislation in England, Wales and Scotland. This enables a child from Northern Ireland to be placed with prospective adopters in other UK jurisdictions or a child from another UK jurisdiction to be placed with prospective adopters in Northern Ireland.

An inter-agency fee is paid by adoption agencies when they place a child with an adopter who has been approved by another adoption agency. The inter-agency fee applies to placements between the constituent nations of the UK and the Isle of Man.

The inter-agency fee covers costs borne by agencies in:

- recruiting and assessing adopters;
- matching and placing children; and
- providing supervision and support up to the point of the adoption order or for the first 12 months of a placement.

In Northern Ireland the fee for inter-agency placements between Trusts is agreed by the 5 Trusts. The current fee charged by a Trust is £6,000.

The Consortium of Voluntary Adoption Agencies UK's (CVAA UK) guidance, "*The Inter Agency Fee – An Operational Guidance with Appendices for England, Wales and Northern Ireland (issue April 2021)*"¹, sets out the financial and operational arrangements for inter-agency adoption placements in the UK.

The fees charged for placements made with a voluntary adoption agency in England, Wales, and Northern Ireland from 01 April 2021 to 31 March 2022 are set out in the table below.

Number of children	Fee level
For 1 child	£32,320
For 2 children	£52,128
For 3 children	£70,894
For 4 children	£81,319
For 5 children	To be negotiated on an ongoing basis
Ongoing supervision per child	£896

Appendix 2 of the guidance which sets out the components that make up the inter-agency fee, also states that:

"A small element of the fee, costed as a sixth, contributes the cost of providing a holistic post adoption service which is available free of charge at the time of need to adoptive families, adopted children and adults."

The expectation is, therefore, that where a registered voluntary adoption agency in Northern Ireland makes arrangements for a child who is looked after by a local authority in England Wales or Scotland to be placed for adoption with approved prospective adopters in Northern Ireland, a proportion of the inter-agency fee paid by the local

¹ [The Inter Agency Fee – An Operational Guide with Appendices for England, Wales and Northern Ireland \(Issued April 2021\) – CVAA UK](#)

authority to that voluntary adoption agency will be used towards the cost of providing post adoption support services by the voluntary adoption agency.

Adoption and Children Bill

Clause 5 of the Bill will place a duty on an adoption authority (i.e. a HSC Trust) to carry out an assessment of needs for adoption support services at the request of children who may be adopted, their parents and guardians; persons wishing to adopt a child; and adopted persons, their parents, natural parents and former guardians; or any other person of a prescribed description, at that person's request. Intercountry adoptions and domestic adoptions are treated on an equal footing for the purposes of this clause.

Under the Bill, the adoption support services which must be made available include counselling, advice and information and other services to be prescribed in regulations. It is anticipated that these will include:

- Therapeutic services
- Financial support
- Services to enable discussion of matters relating to adoption
- Services to ensure the continuation of adoptive relationship; and
- Assistance in relation to arrangements for contact.

Regulations to be made under clause 5 will set out the arrangements for the provision of adoption support in respect of adoptive placements outside the Trust's area. It is anticipated these arrangements will be similar to what is already in place in other UK jurisdictions. Further detail will also be set out in accompanying guidance.

The duty on Trusts in clause 6 to provide information about the types of adoption support services available within their area will also apply to adoptive placements outside the Trust's area. Therefore, if the receiving Trust is aware of an adoptive family's move into their area, they must provide information on the types of adoption support services available in their area, even though the placing Trust, or local authority in England, Wales or Scotland, may continue to provide or fund the adoptive family's support for up to 3 years.



Committee for Health

Wendy Patterson
DALO
Department of Health

By email: Wendy.patterson@health-ni.gov.uk

Our Ref: C337/21

26 November 2021

Dear Wendy,

RE: Adoption and Children Bill - cross-border kinship and overseas adoption

At its meeting on 25 November 2021, the Committee for Health heard oral evidence from adoption agencies on the Adoption and Children Bill.

The Committee has requested information on the following:

- details of interactions that the Minister or his officials may have had with Southern counterparts regarding cross-border cooperation on kinship care/adoption arrangements and support on the island of Ireland; and
- information on current practice regarding the provision of support in cases of overseas/intercountry adoption, in comparison with that provided for adoption within the UK jurisdiction.

I would appreciate a response by 13 December 2021.

Yours sincerely,

Keith McBride
Clerk
Committee for Health

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