

ADOPTION AND CHILDREN BILL

- EVIDENCE TO THE COMMITTEE FOR HEALTH -

OCTOBER 2021

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Voice of Young People in Care (VOYPIC) welcomes the opportunity to submit evidence to the Committee for Health regarding consideration of the **Adoption and Children Bill**.

VOYPIC is the charity for children and young people with lived experience of care in Northern Ireland. Created in 1993 by a group of young people in care and the professionals that supported them, VOYPIC has almost 30 years of experience promoting the rights and voice of children in care and care leavers.

We want every child to have a safe, stable and positive experience of care, and to be involved in the decisions about their life.

Our work supporting young people with lived experience of care focuses on three main areas; Independent Advocacy, Participation, and Influencing Change. In 2020-21 we supported 673 children in care and young people leaving care.

In preparing this evidence we reviewed recent engagement with children and young people involved with VOYPIC. This included a review of the response to the public consultation on the Bill in April 2017 (attached).

VOYPIC broadly welcomes and supports the introduction of this Bill. The Bill seeks to establish a system for the adoption of children and young people that is focused more on safeguarding and promoting the welfare of the child, acknowledging the need for tackling all unnecessary delays in this process. This is to be welcomed, as it has the potential help ensure children and young people have the best start in life.

Part 2 of the Bill seeks to make a wide range of amendments to the Children Order to improve outcomes for children in care and young people leaving care. This Order is now more than 30 years old, and has been subject to amendments over its lifetime. While VOYPIC is supportive of many of the changes to be brought about through this Bill, we question the need for repeal and replacement of the Order. This Bill, seeks to make changes to a system in need of reform, while maintaining the structural integrity of how children and young people are cared for in Northern Ireland.

Part 1 – Adoption

We welcome the intention of the Bill to make adoption law more child centred, ensuring that the child's welfare is the paramount consideration in all decisions relating to adoption. This is reflected in the proposed introduction of a welfare checklist to be used by adoption authorities during the decision-making process, and the provision obliging courts to draw up timescales for resolving adoption cases without delay.

We welcome the duty on adoption authorities to maintain an adoption service, including the arrangements for the provision of adoption support services, including financial support, and the establishment of an independent review mechanism in relation to the assessment of adopters.

We also welcome the placing of a child in a 'Fostering for Adoption' placement, as this is likely to provide greater stability, and reduce the number of moves a child needs to make.

Part 2 – Children Order Amendments

This Bill seeks to make a series of amendments to The Children (Northern Ireland) Order 1995. While that Order has been subject to a range of amendments over the past twenty-six years, it must be acknowledged that the legislation is out of date. Therefore, we welcome many of the proposed amendments made in this Bill.

119 – Special Guardianship [j115]

The introduction of Special Guardianship Orders (SGOs) are welcomed as a means of providing long term security and stability for some children and young people. Residence orders also offer this stability. However, we believe that long-term fostering should also be recognised as a permanence option. The inclusion of a definition of permanence for children and young people in the Bill, which includes long term fostering, would be helpful. The key difference between long term foster care and other options is that the child remains in care, can have contact with their birth family, and have access to therapeutic support services, social work support and entitlements to leaving and after care services.

The proposal to introduce SGOs was supported by young people at VOYPIC from its initial consultation, and continues to have support from the young people. However, there were differences of opinion regarding the time a child must have lived with a person before an application can be made for an SGO. While a slim majority of young people agreed that this should be set at one year, over 40% thought this was not long enough. Some suggested this should be increased to three years.

Should this Bill pass with a one-year requirement, we would seek reference in regulation and guidance that one year is seen as the minimum requirement, and not taken to be common practice.

In line with Clause 120 we recommend that children and young people should have access to an independent advocate to explore, and where required represent, their wishes and feelings in advance of an application to the court for a SGO.

Article 14A (1) introduces a requirement for the court to *'draw up a timetable with a view to determining the question without delay'*. We strongly welcome this, as it will help to avoid any unnecessary delay in the process.

Article 14F (1) will require the authority to *'make arrangement for the provision within its area of special guardianship support services...'*, while paragraph (2) clarifies that this must include financial support. VOYPIC recommends that there should be no hierarchy to permanency for children and young people. Special guardianship support should be provided on the same basis and with the same eligibility as adoption support.

120 – Ascertainment of children's wishes [j5304]

Article 12 of the United Nations Convention on the Rights of the Child (UNRCR) states that children and young people should be able to express their thoughts and feeling on the decisions about their lives, and that these wishes and feelings should be given due weight in the decision making process. Therefore, VOYPIC strongly welcomes the proposed introduction of a requirement on the authority to *'(a) ascertain the child's wishes and feelings regarding the provision of those services'*.

When ascertaining these wishes and feelings, all reasonable steps should be taken to ensure meaningful, informed participation of the child.

Particular attention should be paid to involving younger children and children in vulnerable situations, such as children with disabilities.

In many cases it will be appropriate, and often necessary, to provide the child with independent advocacy support, to ensure they are able to fully and meaningfully engage in the process.

122 – Duty of authorities to promote education achievement and prevent disruption of education and training [j5204]

Young people with lived experience of care are more likely to leave school with fewer qualifications than their non-care experienced peers. While significant investment to improve education outcomes has been made over the past decade, it is important that we develop a greater understanding of the multifaceted reasons why only 77% of young people in care left school with five GCSEs at grade A*- C, compared with 91% of the general population.

We welcome a duty on authorities to promote education achievement among young people in care. To achieve this, guidance must seek to better understand and define what we mean by ‘achievement’, noting that it cannot be measured simply on GCSE grades. Furthermore, the duty should extend to promoting, and resourcing, greater participation in education and extra- and co-curricular opportunities. We are aware that some children in care are unable to access the same range of opportunities (school trips, involvement in sports teams, participation in arts and music) as their peers.

VOYPIC also strongly advocates that children and young people living in all types of care placements should have equal access to opportunities and support with their education. We are particularly concerned that young people in residential care do not have consistent access to the internet nor have access to the same financial support and educational assistance as young people in foster care through the Fostering Achievement scheme.

123 – Corporate Parenting Principles [j26ACH]

The extension of the corporate parents to cover the ‘corporate family’ is a key element of ***A Life Deserved; a Strategy for Looked After Children***. The Strategy, developed through a process of engagement with young people with lived experience of care, sets out the benefits of the Corporate Family, and the need for statutory agencies beyond those in Health and Social Care to be involved in the lives of children and young people with experience of care.

It is important that guidance given by the Department, as provided for at 26A (4), requires the authorities to put in place plans for how they will meet their corporate family duties, and how they will communicate this to children and young people in care and young adults who have left care. We acknowledge the novelty of this for many departments and agencies, therefore sufficient guidance and capacity building ahead of commencement will be required.

126 – Fostering Panels [j28A]

We support the establishment of statutory panels. This will help to ensure consistent decision making. A clear regulatory framework for all aspects of foster care is required. There is a clear need for the draft foster care regulations to be brought forward to enable the development of standards for foster care and the introduction of inspection.

127 – Duty to ensure visits to and advice etc. for children [j28B]

Visits to a child in care by a representative of the relevant authority are essential to ensure the welfare of the child. Throughout the Covid-19 pandemic, visits to young people in and leaving care were curtailed, with regulations amended to provide greater flexibility for social workers and for visits to be delayed. While this was acceptable for many young people, for others it led to increased difficulty and a greater sense of isolation.

28B (3)(b) makes provision for the Department to make regulations for the purposes of the Article, while 28B (4) set out what regulations may address. While VOYPIC agrees with those listed at this section, we are concerned that no mention is made here of the need to ascertain the wishes and feelings of the child with regards to the nature of the visit.

128 – Former relevant children: continuing functions [j34DACH]

The Going the Extra Mile Scheme (GEMS) has been successfully in place on a non-statutory basis for some time. Over the years, many young people have been supported to remain living with their foster families beyond their 18th birthday. It is important that planning for such arrangement begins at the earliest opportunity, to provide young people with a degree of stability at this crucial time in their lives. This must be set out in regulations and guidance, to accompany the Act. Access to the scheme should not be on the basis of a young person's education or employment status.

VOYPIC welcomes the requirement for the authority to provide further advice and support to care leavers up to their 25th birthday. We believe that all care leavers in receipt of leaving and after care services should automatically continue to receive such support until the age of 25. It is those young people who have experienced the greatest adversity and instability who are in most need of support, and we fear that it is these young people who are less able to request it.

We welcome the fact that young people receiving advice and assistance will be appointed a Personal Adviser and that a Pathway Plan will be prepared. It is vital that the Personal Adviser service is appropriately resourced to ensure that all young people have access to this support. However, we are aware that many young people we support do not have an allocated adviser.

We agree that an authority should continue to provide support for a former relevant child who has reached the age of 25 where the authority is satisfied that the former relevant child has needs that cannot be met other than by providing such advice and support.

We welcome that young people who wish to return to education, or require further types of assistance, can request an assessment of their needs.

Paragraph (7) notes that *'the authority may disregard any interruption in the person's pursuance of a programme of education or training if they are satisfied that the person will resume it as soon as it reasonably practicable'*. This provision should also explicitly include change in programme, where a young person decides to follow a different path of learning

or training. Furthermore, it should include extension, where a young person completes a programme of study and then seeks to continue their studies at a higher level.

129 – Local offer for care leavers [j34GCH]

VOYPIC welcomes the requirement for authorities to publish information about the relevant service it offers to care leavers, and other services which may assist care leavers in, or in preparing for, adulthood and independent living. Paragraph (5) requires the authority to *‘update its local offer for care leavers from time to time, as appropriate’*. Any guidance in relation to this should include a timeframe for updating such information, to ensure that services included continue to be accessible and relevant for local care leavers.

130 – Inquiries into representations [j117]

Greater clarity is required on the regulations that *‘may be made by the Department imposing timescales on the making of representations’*. We welcome the provisions for an informal resolution stage and the extension of the complaints procedure to specified services provided under Parts 5 and 6 of the Children Order.

132 – Advocacy services [j119]

Every child and young person with experience of care should have the right to access advocacy services to support them make representation. Currently, VOYPIC delivers the regional independent advocacy, supporting over 400 young people each year to have their voice heard in their care planning and reviews. For many young people, the support of an advocate can help them to engage in their own care pathways, and ensures that their right under Article 12 of the UNCRC is protected.

VOYPIC strongly supports the requirement for the authority to make arrangements for the provision of such assistance. However, it must be made clear in the legislation that such assistance must be independent of the authority, or any providers of children’s social care services. Often representation is made with regards to decisions being taken by, or action carried out by, the authority of a third-party provider, therefore to have advocacy services provided by such would be inappropriate.

133 – Definition of harm [j120]

While VOYPIC agrees with the proposed extension of the definition of harm in Article 2(2) of the Children Order, it is our opinion that this should be further enhanced. The impact of domestic abuse on children is profound, and the risk of harm to children is not dependent upon their awareness or understanding of the abuse. The proposed amendment does not reflect the approach taken regarding the child aggravator in Article 9 of The Domestic Abuse and Civil Proceedings Act (Northern Ireland) 2021. In recognition of the damaging impact on a child of living in a home where domestic abuse is taking place, there is no requirement for a child to have an awareness or understanding of the abuse for the child aggravator to apply.

134 – Care Plans [j121]

The decision to bring a child into care is significant. Any such decision must clearly show how the best interests of the child, including their welfare, will be met. Therefore, it is important that a plan for the child's care is drawn up at the earliest opportunity. We welcome the fact that care planning will be placed on a statutory basis, particularly in light of the Departments decision not to introduce an Independent Reviewing Officer. We hope that this measure will ensure that decisions made about a child in care will be based on the principles of best interest and assessed need and will reduce financially motivated decisions regarding the care and placement of children.

In drawing up such a plan, the wishes and feelings of the child must be sought, and given due weight when making decisions on the content of the plan. This requirement should be included within this Bill.

136 – Contact: children in care of authority [j7CF]

Contact, referred to young people at VOYPIC as 'family time', is consistently one of the most common concerns for young people accessing our advocacy. It is important that their wishes and feelings are taken into consideration when decisions are being made in respect of their contact with family, including extended family.

137 – Renaming of guardians ad litem [j61CH]

Guardians ad litem provide a valuable service for children, supporting them to engage in a difficult court process. The term ‘guardian ad litem’ is not accessible or *child-friendly*, which risks leaving children and young people feeling alienated in a legal process that is all about them. VOYPIC supports changing this term to ‘children’s court guardian’.

143 – Children Order Annual Report

An annual report should be produced by the Department of Health, drawing on the information gathered and published by relevant agencies. This should report against outcomes for children and young people in and leaving care.



**RESPONSE TO PUBLIC CONSULTATION ON THE
ADOPTION AND CHILDREN (NORTHERN IRELAND) BILL**

DEPARTMENT OF HEALTH

APRIL 2017

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INTRODUCTION

VOYPIC welcomes the opportunity to respond to the consultation on the Adoption and Children (Northern Ireland) Bill (hereafter the Bill).

The current adoption legislation in Northern Ireland is almost 30 years old and the key body of children's legislation is over 20 years old. These are no longer fit for purpose and require to be updated and modernised in order to strengthen provision, enhance services and improve outcomes for children, their parents and carers, and looked after children and young people.

VOYPIC welcomes the majority of the proposals in the draft Adoption and Children (Northern Ireland) Bill and believes that many of them are long overdue. We note positive developments and proposals that now also feature in this current consultation.

Many of the proposals represent potential significant change to legislation, policy and provision of services. There is, therefore, a need for robust and comprehensive accompanying guidance and regulation to the Bill to strengthen provision and enhance the effectiveness of all of these proposals.

Our response to the draft Bill draws on a body of evidence gathered from:

- VOYPIC's extensive practice delivering advocacy, mentoring and participation services to children in care and care leavers
- Engagement with young people on key issues and *Our Life in Care* survey 2011 - 2013
- Our most recent conversations with children and young people and a workshop with 10 young people from all five Trusts in March 2017. The workshop took views and feedback on some of the main provisions in the Bill which will impact on looked after children and care leavers (see *Appendix 1 for workshop plan*). The young people were also asked to vote

on these provisions. The results of this vote, as well as the young peoples' views and feedback, are reported throughout this response and in our online response to the consultation.

VOYPIC policy staff also attended public consultation events on the Bill and provided feedback and comment at these events.

We have submitted a response to the Bill via the online consultation questionnaire. We recognise the expertise of other organisations with regards to the adoption legislation and proposed provisions under this. Therefore, our written response under separate cover focuses on some of the key issues within the proposed provisions and amendments to the Children (Northern Ireland) Order 1995 that will impact on looked after children and care leavers.

For the workshop we held with young people on the Bill, we grouped the issues and provisions into five main themes. For the purpose of this report, we will respond under these same themes:

- Care Planning
- Rights and entitlements that support children and carers (i.e. Fostering Panels, Kinship Care Orders, Advocacy and Corporate Parenting)
- Stability and permanence (i.e. Special Guardianships Orders)
- Education (i.e. Duty to support education and Personal Education Plans)
- Supporting care leavers to independence (i.e. GEMS and extending support to 25).

We will also provide a response here on the proposed Partnership Arrangements.

CONSULTATION RESPONSE

Care Planning

Care planning and care plans are critical to decision making in young people's lives. An individual care plan which is discussed and agreed with a child is key to effective care and the foundation for pathway planning and the transition to adulthood. A child or young person should know the overall plan for their time in care whether that's for a short or significant period of time. They may need support to be part of the planning for their care, to participate meaningfully in decision making and to help them understand why, at times, certain decisions that they may not agree with are made about their care.

There were mixed views in our workshop among young people about the proposal in the Bill that the Court should be required to only consider the permanence provisions of a care plan. While the young people agreed that delays in decision making are difficult for them as it creates uncertainty and instability in their lives, a number were worried that there is a risk involved when making decisions without being aware of and considering all aspects of a child's care plan.

82% of young people at the workshop agreed that the court should ONLY CONSIDER THE PERMANENCE PROVISIONS of the care plan

Young people stressed that when making decisions consideration should also be given to educational and health needs. In particular, young people felt that it was very important to have continuity with regard to their education, especially if they were preparing for GCSEs or A Level exams, and that any placement should be close to their current school. They also felt that thought should be given to how decisions can impact on their friendships and relationships if they result in them having to move away from where they live. This is

especially important as the Care Inquiry (2013)¹ describes relationships as a “*golden thread*” in the lives of children in care.

Some young people raised the issue of the age of the child and if this could feature in whether or not the Court considers just the permanence aspect of the care plan. They questioned whether it should take longer to make a decision about a younger child who could potentially be in care for a longer period of time than a teenager entering the care system who may need clarity on the intention and plans for their permanent living arrangements.

VOYPIC's View

While we agree that all efforts should be made to tackle delays when making decisions about children in care and children coming into care, we advise caution if restricting consideration to permanence provisions only. While this is undoubtedly one of the most important issues for children in care, attention should not be diverted from educational and health needs.

We recommend that the courts should consider each young person and care plan on an individual basis and, where appropriate, consider the permanence provisions of the plan only. However, in cases where more consideration may be necessary, the whole care plan should be deliberated before a final decision is made.

¹ The Care Inquiry. (2013). *Making not Breaking: Building relationships for our most vulnerable children*. Available at: http://www.thewhocarestrust.org.uk/data/files/Care_Inquiry_files/Care_Inquiry_-_Full_Report_April_2013.pdf

Rights and Entitlements that Support Children and Carers

Fostering Panels

In our workshop, we asked young people to think about fostering panels and if decisions they make should be independently checked. The young people were in agreement that all Trusts should follow the same rules when it comes to making decisions about fostering. They felt that if the Trusts had differing approaches to their decision making, this could result in different outcomes – for example, a person may be approved to be a foster carer by one Trust, but not by another.

Young people also thought that laws and regulations around fostering panels would go some way towards protecting children and young people in foster care and reduce the likelihood of placement moves.

100% of young people at the workshop thought that DECISIONS MADE BY FOSTERING PANELS about whether a person should be able to foster should be INDEPENDENTLY CHECKED

VOYPIC's View

Decisions made by Fostering Panels should be independently checked by the same body or organisation that deals with reviews of adoption panel decisions.

Consideration should also be given to how young people's views could be reflected to fostering panels.

Kinship Care Orders

VOYPIC expresses some concern with regard to the proposal to introduce Kinship Care Orders. We understand that the system for the regulation of kinship foster care in Northern Ireland is different to that of Scotland (cited in the consultation document) and may not be wholly comparable.

We query where the resources for the proposed financial assistance for kinship carers would come from, especially as there is often a lack of funding and resources for children and young people who are already in the looked after or care system.

A review of current provision and alternatives for the support of kinship care including support linked to residence orders might be of value prior to the introduction of kinship care orders.

VOYPIC's View

Consider the appropriateness of introducing Kinship Care Orders in Northern Ireland.

Examine alternative support options for families in kinship care arrangements

Advocacy for children in care

We welcome the commitment within the draft Bill to place advocacy services for all looked after children on a statutory basis. We believe advocacy plays a key role in supporting children and young people in care and care leavers to have their voices heard and their rights and entitlements upheld.

We think, however, that the Bill could go further with regard to advocacy, in particular with the following additional provisions:

- Advocacy for looked after children and care leavers should be independent from the Trust responsible for the care of the child or young person
- There should be a duty on Trusts to promote advocacy services for looked after children and care leavers
- The right to independent advocacy should last for care leavers up to the age of 25.

We discussed advocacy with young people at our workshop. All young people felt that looked after children should be offered an advocate by law and the majority thought that advocacy should be provided independently from Trusts.

**82% of young people felt that
ADVOCACY SERVICES for
looked after children and
care leavers SHOULD BE
INDEPENDENT FROM TRUSTS**

They felt this was important as an advocate's role is more informal and does not involve making decisions about a young person's care plan.

**100% of young people
agreed that there should
be a DUTY ON TRUSTS TO
PROMOTE ADVOCACY
SERVICES for looked after
children and care leavers**

All young people at the workshop were in agreement that there should be a duty on Trusts to promote advocacy for children in care and care leavers. They suggested that a young person should be offered an advocate when they first enter care.

Entering care can be a stressful time for young people – there is often a lot going on in their lives at this point and they may not be ready to think about accessing advocacy services. Because of this, they should also be reminded of their right to advocacy once they have settled and routinely as part of their LAC review meetings.

91% of young people thought that the RIGHT TO INDEPENDENT ADVOCACY for care leavers should LAST UP TO THE AGE OF 25

VOYPIC's View

There should be a **duty on Trusts to promote advocacy** for looked after children and care leavers and it should be **provided independently from the responsible Trust.**

The right to advocacy should **remain for care leavers up to the age of 25.**

Corporate Parenting

VOYPIC is pleased to see the inclusion of the proposal to introduce corporate parenting into legislation in Northern Ireland. While the DoH may be the lead department for looked after children, corporate parenting should not be confined to it. There are roles and responsibilities for all government departments to consider and respond to the needs of children in care and care leavers.

It is crucial that every stakeholder within the corporate family for looked after children, be it a government department, arms-length body or other partner agency, recognises and defines their roles and responsibilities as corporate parents for children in care and care leavers. The Children's Services Co-operation Act (2015) is an important mechanism for progressing this aim and promoting a sense of corporate family where all bodies and stakeholders recognise their role in supporting care experienced young people.

The young people we engaged with at the workshop felt that introducing corporate parenting to legislation would strengthen the ability of corporate

91% of young people at the workshop agreed that there should be a LAW ABOUT CORPORATE PARENTS

parents to carry out their duties and also place more accountability on them if they did not undertake their corporate parenting responsibilities. It was thought that this would provide young people with more support and help to keep them safer.

VOYPIC's View

A **definition of corporate parenting and the duties and requirements of a corporate parent should be introduced to the legislation** in Northern Ireland. The **responsibility of corporate parenting should be extended to bodies outside of Trusts**, such as the PSNI, education and housing, as is now the case in Scotland, and all parties must acknowledge their role within the corporate family for children in care and care leavers.

Stability and Permanence

Special Guardianship Orders

VOYPIC wants all children and young people in care to enjoy appropriate, settled, safe and secure placements that take into account their needs and circumstances. Special Guardianship Orders (SGOs) present a new and complementary mechanism to ensure greater permanence and stability for some looked after children in Northern Ireland.

While VOYPIC welcomes the introduction of SGOs, we are concerned that some of the issues that arose in practice with SGOs in England could occur here if measures are not taken to mitigate against them.

For example, a 2015 review of SGOs in England found that the parenting capacity of some prospective special guardians was not always appropriately assessed prior to an order being granted. As an SGO is a permanent legal order, it is imperative that robust assessments are undertaken prior to the order being put in place. These assessments should not only consider the parenting capacity of the potential special guardian, but also the current and likely future needs of the young person and the relationship between the young person and the special guardian.

An SGO should only be made for a carer who has a positive, active relationship with the child or young person and where there is a strong probability that the placement will last permanently until the child is at least 18.

We are pleased to note that measures are proposed in the Bill to be introduced alongside SGOs to mitigate against and prevent any unintended outcomes.

There has been an increase in recent years in the number of unaccompanied and asylum-seeking children arriving in Northern Ireland.

These young people are referred to VOYPIC's advocacy service which has specialist teams dedicated to supporting them. In particular, the introduction of SGOs may help to provide greater support for these young people who often require secure and permanent homes, but still have strong attachments to their families abroad.

We also welcome the proposal to introduce Special Guardianship Support Services and a duty to carry out an assessment of the support needs of special guardians and young people. Such support services should include access to therapeutic support, financial help and support with managing contact with birth parents and other family members. It is important to highlight that previous research into the practice of SGOs found that special guardians can often be reluctant to seek help due to fears of being perceived as not coping². Therefore, simply signposting to a support service is likely to be insufficient. We also suggest that, where necessary, birth parents are supported to understand the legal implications of an SGO with regard to parental responsibility and contact.

Young people at our workshop were divided in their opinions on SGOs. While they liked the idea of having more permanence and stability and no longer having a social worker, they expressed some concerns. For example, the prospect of losing the financial assistance that comes with being looked after and the support of a social worker when they are unhappy in their placement worried some young people. Others were concerned about the finality of the decision about whom a young person would live with – they queried what might happen if a young person becomes unhappy living with their special guardian and the placement broke down.

² Wade, J., Dixon, J., & Richards, A. (2010). *Special Guardianship in Practice*. London: British Association for Adoption and Fostering (BAAF).

55% of young people at the workshop felt that a YEAR LIVING WITH A FAMILY IS LONG ENOUGH FOR AN SGO TO BE GRANTED

We also asked the young people what they thought about the proposed residence requirements for SGOs. While some felt that a year was long enough to live with a family before an order could be granted, others thought this was too short and suggested

that a young person should be living with the prospective special guardian for at least two to three years before an application could be made. They also pointed out that some young people can take even longer to settle in their placement.

However, 45% felt that A YEAR WAS NOT ENOUGH

VOYPIC is pleased that the Bill proposes to introduce a panel assessment of special guardianship applications relating to looked after children. We urge that the views of the child to whom the SGO will apply are sought and presented during panel assessments. We also suggest that clear and consistent guidance be provided to practitioners across all Trusts regarding factors to take into account when considering whether an SGO is the most appropriate option for the young person.

SGOs should not be viewed as an alternative or substitute for adoption. They represent a useful mechanism to provide loving, safe and stable homes for some young people, but should not deter from adoption where this is deemed to be the better option in the best interests of the child.

VOYPIC suggests that a review of SGOs and their application in Northern Ireland is undertaken 24 months after their introduction so as to quickly identify any unintended outcomes and to work to mitigate against and prevent these from further occurring.

VOYPIC's View

VOYPIC welcomes the introduction of SGOs to Northern Ireland. They represent a positive development in providing increased stability and permanence for some looked after children. However, we urge the Department to **consider possible unintended outcomes of the scheme and put in place measures to mitigate against and prevent these from occurring**. In particular, we advise that:

- An **SGO should only be made for a carer who has a positive, active relationship with the young person** and where there is a strong probability that the placement will last until the child is at least 18; and
- **Robust assessments of the parenting capacity of the potential special guardian**, the current and likely future needs of the young person and the relationship between the young person and the special guardian are undertaken prior to the order being put in place.

Education

Duty to promote and support education

VOYPIC wants children and young people in care and care leavers to be supported to succeed in education, training and employment. Although some do well, looked after children as a group can have poor experiences of education compared to that of their peers.

Reasons for poorer levels of achievement may include coping with trauma and emotional difficulties, lower levels of attendance at school, attitudes to education in the placement or difficulty maintaining school placements.

100% of young people at our workshop thought that it should be introduced to legislation that

TRUSTS SHOULD DO MORE TO HELP CHILDREN IN CARE WITH THEIR EDUCATION and to MAKE SURE THAT THEIR EDUCATION IS NOT DISRUPTED

It is positive to note that we have continued to see a steady increase in the number of children and young people in care achieving five GCSEs or more. There remains a discrepancy, however, between the number of children and young people in care gaining five or more GCSEs at A* - C compared to the general population. For example, only 21% of care leavers aged 16 - 18 left care in 2015/16 with five GCSEs (A* - C or higher), compared with 81% of general school leavers in 2014/15³.

Last year VOYPIC talked to children and young people for the Department of Education as part of their development of a policy to promote and support the education of looked after children. We heard from 125 young people

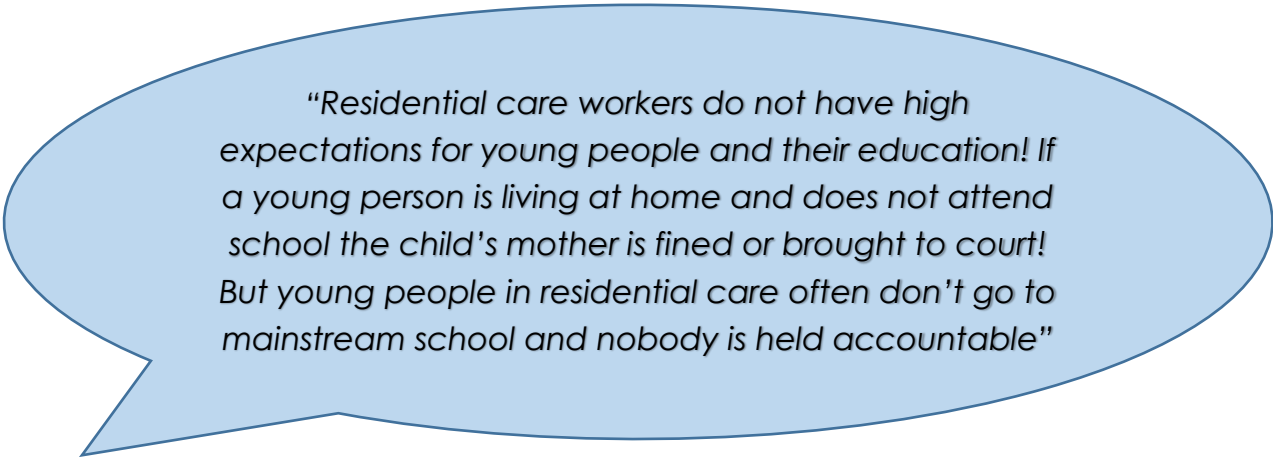
³ DoH. *Northern Ireland Care Leavers 2015 / 16*.

across the five Trusts through a survey and a series of workshops. Key issues emerged from our consultation:

- Lack of awareness of Personal Education Plans (PEPs); and
- Prevalence of missing or dodging school among young people who live in children's homes.

Statistics show that during the 2014/15 school year, 10% of looked after children had 25 or more days of school absence for any reason, and that school aged children in residential care or 'other' placements were significantly more likely to miss 25 or more days of school per year than those living in foster or kinship care⁴. This was also evident in *Our Life in Care* 2013 survey - 76% of over 12s who had been out of education for more than three months were living in a children's home.

In our recent workshop on the Bill, young people told us that carers, including residential staff, should be held more accountable for a young person's attendance (or lack of) at school. This links with what a young woman said in response to our recent "Attitudes to Care" survey undertaken with EPIC in the Republic of Ireland. She said:



"Residential care workers do not have high expectations for young people and their education! If a young person is living at home and does not attend school the child's mother is fined or brought to court! But young people in residential care often don't go to mainstream school and nobody is held accountable"

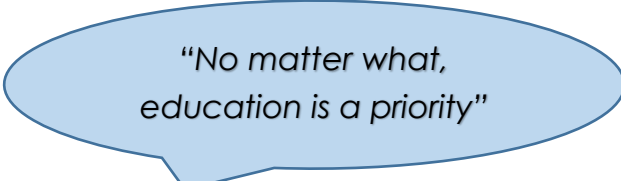
⁴ Department of Health. (2016). 'Children in Care in Northern Ireland 2014-15: Statistical Bulletin'.

We need to explore how best to support children and young people living in children's homes with their school attendance and education. It may be that some young people who miss school require support to address particular issues and vulnerabilities, while for others, a more practical solution of placement planning and management may be required.

Safety and stability are important for all children and young people, but it is particularly important for young people in care to live in safe, stable and peaceful environments. Children in care face a number of additional challenges, and therefore need a placement that has the essential structure, security and safety. It must, at the same time, be a place where they have a sense of belonging, feel cared for and enjoy privacy.

Between April 2015 and March 2016, 39% of all looked after children experienced at least one placement move. Of these, 25% experienced three or more moves⁵. It is not clear if or how many young people had their education disrupted due to a change of school. However, this highlights the importance of a Trust considering the child or young person's education or training when providing them with accommodation.

As one young person in our workshop put it:



*"No matter what,
education is a priority"*

Young people at our workshop were in agreement that the law should stipulate that, as far as is possible, a young person should remain in their school if a change of placement is required or inevitable. This stability is particularly important for young people doing exams such as GCSEs or A Levels. Young people queried what would happen if a young person was

⁵ HSCB Annual Corporate Parenting Report April 2015 – March 2016

moved to a school that did not offer the same subject/s as their previous school?

Maintaining and/or securing local placements and avoiding disruption of education requires sufficient provision of appropriate placements for young people in care.

There was also some discussion about offering more support both in placements and at school for looked after children and a need for quicker responses to referrals for tutoring. Some young people felt that teachers should be made more aware of looked after children and their needs, but that a young person should give consent before a teacher is informed of their care status.

VOYPIC believes that having young people attend their Looked After Child (LAC) review meetings is key to having their voices heard. We are, however, concerned about the number of hours young people are missing school in order to attend their LAC reviews.

We heard from one young person who regularly attends his LAC reviews and misses about a half day of school each time. He gets no additional support or assistance to catch up on any work he's missed. No child should have to miss out on school to prepare for or attend a LAC review meeting. The system should ensure that young people do not have to miss school to attend meetings. In those cases where missing school is unavoidable, additional support should be available to help catch-up on school work missed.

Personal Education Plans (PEPs)

We recently developed some case studies about education for DE.

A lack of knowledge and awareness of PEPs was evident among the young people we spoke to. We emphasise the need to ensure that all young people in care (as appropriate) are aware of their PEP and what it entails. The proposal in the Bill to place PEPs on a statutory footing in Northern Ireland represents an important mechanism for achieving this aim.

If PEPs are made a statutory requirement in Northern Ireland, we expect that they would be featured and considered during care planning and at LAC review meetings.

100% of young people at our workshop thought that
PEPS SHOULD BE MADE PART
OF THE LAW

VOYPIC's View

Children in care and care leavers should be **supported to succeed in education, training and employment**. In particular, consideration should be given to **how best to support young people who miss school for significant periods of time**.

Personal Education Plans (PEPs) should be made a statutory requirement in Northern Ireland and all children and young people supported to be aware of their PEP and what it entails.

Supporting Care Leavers to Independence

Young people who are preparing to leave care require support to manage the transition to independence. Making the transition to adulthood and independence can be especially difficult for young people who have been cared for away from home. Even with support to prepare for leaving care, some young people may not be fully ready to make the transition at 18. This can lead to crises such as homelessness and unemployment, particularly for care leavers with a limited family or social network.

Going the Extra Mile Scheme (GEMS)

VOYPIC is pleased to see the proposal in the Bill to place GEMS on a statutory footing. The *Going the Extra Mile Scheme (GEMS)* promotes continuity of living arrangements for care experienced young people aged 18+ by providing appropriate support and financial assistance to ensure that they can continue to live with their foster or kinship foster carers. It is well recognised in Northern Ireland for its flexibility and applicability and we encourage and support its development and continuation.

**82% of young people at our workshop
agreed that**

GEMS SHOULD BE BROUGHT INTO LAW.

**18% felt that it should be brought into law
but**

BE ELIGIBLE FOR OTHER CARE SETTINGS

and have the

FLEXIBILITY TO OPT IN AND OUT

We believe, however, that GEMS should be reviewed to be inclusive of all care experienced young people regardless of their placement type or ETE status.

In VOYPIC's experience, young people who have lived in placements other than foster or kinship foster care and/or who are not in education, training or

employment can have limited community support or social

networks and require additional support to manage the transition to independence and to avoid crises such as homelessness and unemployment.

We refer here to the guidance published by the Scottish Government in 2013. '*Staying Put Scotland*'⁶ provides guidance for local authorities and other corporate parents about how to better support looked after children and young people to remain in care as part of a staged transition towards adulthood and greater independence. This will enable care leavers to enjoy a transition from care to adult independence more like that of other young people. The guidance advises that end-of-care planning decisions should be based on the needs of the young person, rather than their age or legal status.

Last year, the English Government pledged to trial a pilot scheme for care leavers called *Staying Close*. The scheme enables a young person leaving residential care to live near to and retain links with their children's home. There is no similar scheme in Northern Ireland. VOYPIC recommends that the Department consider similar options in its strategy for children in care for maintaining support and proximity for care leavers leaving children's homes.

Scotland has also recently announced a comprehensive, independent review of their care system. The review will be driven and shaped by care experienced young people and will examine the legislation, practices, culture and ethos of the care system in order to bring about real and lasting change. We recommend that a similar comprehensive and overarching review be undertaken in Northern Ireland to ensure that every aspect of life for looked after children and care leavers is effectively addressed.

⁶ The Scottish Government. (2013). *Staying Put Scotland*. Available at: <http://www.gov.scot/Resource/0043/00435935.pdf>

Extending Support to 25

VOYPIC wishes to see support for all care leavers extended from its current provision up to the age of 25, and for it to be robust, flexible and specified so as to meet the needs of care leavers. Previous conversations we have had with young people highlight that many don't feel ready for full independence at 21 and that it is essential to have support available until 25 as a matter of course. In particular, they would value the availability of support with moving house, accessing further or higher education and securing employment.

Those young people who have had an unstable care experience and who struggle with leaving care often only feel ready to think about further education, training or employment when they are in their early twenties and so require additional support at this stage.

100% of young people at the workshop thought that CARE LEAVERS SHOULD BE SUPPORTED UP TO AGE 25 if they want it

We talked to young people who feel that care leavers should be able to access support as and when they need it as individual situations may change and having access to some form of support could prevent crises. This support should be flexible, crafted to the young person's circumstances, and meet their needs. Young people should be allowed time to explore what type, format and frequency of support they require.

VOYPIC's View

VOYPIC agrees that **GEMS should be brought into law in Northern Ireland**. However, we advise that it be **reviewed so that it is inclusive of all care experienced young people** regardless of their placement type or ETE status.

A **similar scheme to that of *Staying Close* in England should be piloted in Northern Ireland** to better maintain support and proximity for care leavers leaving children's homes.

Support for care leavers should be extended from its current provision up to the age of 25 and be robust, flexible and specified so as to meet the needs of care leavers.

Partnership Arrangements

The proposals in the Bill on children's partnership arrangements are significant. While we welcome efforts to rationalise the various regional bodies concerned with safeguarding, child well-being and child protection, we do have a few concerns about some of the proposals.

In particular, we are concerned about the proposed membership of the RCYPSP and the RCPP and query whether it will be different to current CYPSP and SBNI membership. For example, the agencies listed at paragraph 3.19 of the consultation document do not include representatives from the voluntary and community sector. Safeguarding is not just a function of the statutory sector. We recommend that membership of the RCYPSP and the RCPP, as well as the other proposed structures within the Bill, should be inclusive of the community and voluntary sector. Having members from community and voluntary organisations on the RCYPSP will, for example, facilitate the proposed function of engaging with children and young people for co-design and co-production.

We also advise that guidance or terms of reference are provided to the LCYPPs to avoid confusion about roles and responsibilities.

VOYPIC's View

Safeguarding is not solely a function of the statutory sector. **Membership of the RCYPSP and the RCPP**, as well as the other proposed structures within the Bill, **should be inclusive of the community and voluntary sector.**

CONCLUSION

The current adoption legislation in Northern Ireland is almost 30 years old and the key body of children's legislation is over 20 years old. These are no longer fit for purpose and require to be updated and modernised in order to strengthen provision, enhance services and improve outcomes for children, their parents and carers, and looked after children and young people.

VOYPIC welcomes the majority of the proposals in the draft Adoption and Children (Northern Ireland) Bill and believes that many of them are long overdue. We note positive developments and proposals that now also feature in this current consultation.

Many of the proposals represent potential significant change to legislation, policy and provision of services. There is, therefore, a need for robust and comprehensive accompanying guidance and regulation to the Bill to strengthen provision and enhance the effectiveness of all of these proposals.

APPENDIX 1 – ADOPTION AND CHILDREN BILL VOYPIC CONSULTATION WORKSHOP

Wednesday 22 March 2017, Ballymena

TIME	THEME	BRIEFING AND QUESTIONS	LEAD/ACTION
1.	<p>CARE PLANS</p> <p>1.2.27</p> <p>P23</p>	<p>Everyone agrees that too much time spent making decisions about a child's life and future is not good. This new Bill has an alternative for care plans and how the courts look at them.</p> <p>A care plan is critical to decision making in young people's lives and it includes plans for lots of things – where to live, who to see, education, health...it's a lot of information. It takes time to make the plan in the first place and it takes more time to tell a court making decisions about a child all about the plan.</p> <p>A judge in court making a decision about a child's future needs to know the most important part of the plan - about permanence –.</p> <p>To prevent delay in court, before making a Care Order, should a judge only have to consider that part of a care plan that is about long term plans or permanence plan for a child's upbringing? Or should consider the complete plan which contains information on placement, contact arrangements and a child's health needs? This takes a lot longer.</p> <p><i>Should the court consider the part of plan that is about long-term plans for upbringing only?</i></p>	<p>GROUP DISCUSS AND VOTE</p>

<p>2.</p>	<p>RIGHTS & ENTITLEMENTS THAT SUPPORT CHILDREN <i>There are 5 proposals in the draft Bill that are about different rights and entitlements</i></p> <ul style="list-style-type: none"> • NIGALA • Fostering Panels <p>1.3.21 P33</p>	<p>NIGALA is the NI Guardian ad Litem Agency and they think their name is not child or young person friendly and want to change it. VOYPIC asked young people about this a few years ago.</p> <p>Now they're asking if they should change the name from NIGALA to NI Children's Court Guardian Agency and change name of a Guardian ad Litem to Children's Court Guardian.</p> <p><i>Are Children's Court Guardian Agency and Children's Court Guardian good new names?</i></p> <p>In every Trust, there's a Fostering Panel that decides who should be allowed to foster children in care. These panels are made up of staff from the Trust's social services teams as well as two members who are independent, eg in the Northern Trust, VOYPIC is a member.</p> <p>The DoH is thinking of making a law to cover what panels do and how they do it. They also think that decisions made by panels should be independently checked.</p> <p><i>Do you think that decisions made by fostering panels about whether a person should be able to foster should be independently checked?</i></p>	<p>GROUP</p> <p>DISCUSS AND VOTE</p>
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	<ul style="list-style-type: none"> • Advocacy 	<p>One way of fulfilling a child's right to be part of decision making for their life is to give them the support of an advocate. Their job is to ensure that child's voice and views are heard.</p> <p>For children in care in NI, VOYPIC delivers that service. The HSCB appoint us as advocates as part of good practice but it's not a statutory entitlement for children in care to have an advocate.</p> <p>In this new Bill, the DoH is proposing to make it part of the law that children in care have an advocate.</p> <p>Should advocacy for children in care become part of a law? Why?</p> <p>What sort of advocacy should be available, eg should it be independent of the Trust? Anything else?</p> <p>How should children and young people find out about it?</p> <p>Should a right to advocacy last up to 25 for care leavers?</p> <p><i>Should advocacy for children in care become part of a law?</i></p> <p><i>Should a right to advocacy last up to 25 for care leavers?</i></p>	
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	<ul style="list-style-type: none"> Corporate Parents <p>2.9 P53</p>	<p>Even though Trusts are understood to be the corporate parents to children in care, there is no definition of this role nor description of what and how they should fulfil this role set down in our laws.</p> <p>The DoH is thinking of setting out this concept of corporate parent in law with a description of what they should do to do the best job possible for children in care.</p> <p>The law would say that the Corporate Parent must:</p> <ul style="list-style-type: none"> Act in the child's best interests and make sure they are healthy and well Encourage the child to express their feelings and views Listen to and act on the child's views Help them get the best services Work to get the best results for the child Help the children to stay safe, and to have good homes, friendships, education and jobs <p>Help prepare the children to live independently</p> <p><i>Should we have a law about Corporate Parents here?</i></p>	
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<p>3.</p>	<p>STABILITY & PERMANENCE</p> <p>Special Guardianship – another route to stability</p> <p>1.2.14 P17</p>	<p>Having a sense of stability and permanence is important to all of us and of course it's important to children in care. Even though adoption can bring permanence about, it isn't always an option even if there's no question of returning to live with birth families. This may be for an older child; a child whose family is overseas and can't be part of an adoption process or a child who has made a really strong connection with their foster carers and family.</p> <p>So, you can also have something that isn't quite adoption (because it doesn't cut off the link with birth parents) but is more secure than other types of care – it's called Special Guardianship.</p> <p>With Special Guardianship, children get more security and the family they are with can get support services - including financial support if that is needed. The DoH is keen to bring Special Guardianship into NI but wants to do some things to make it better.</p> <p>What do you think of the idea of SGOs? We could make sure that Special Guardianship only happens after the child has been living with the family for a certain amount of time.</p> <p>We could require that an independent panel of experts decides that SG is the best option for the child. If such a panel is set up, who should be on it?</p> <p><i>Do you think a year living with a family is long enough for an SGO to be granted?</i></p>	<p>GROUP DISCUSS AND VOTE</p>
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<p>4.</p> <p>1.3.8</p> <p>P28</p> <p>2.14</p> <p>P62</p>	<p>EDUCATION</p>	<p>We know that children in care here do less well at school than other children.</p> <p>We want Trusts to do more to help children in care with their education. We also want Trusts to make sure that the child's education or training is not disrupted if they have to change where they live while they are in care.</p> <p>Children in care have Personal Education Plans which focus on all aspects of their education. The child's hopes and views are an important part of the plan. Everyone involved with the child e.g. teachers, parents and social workers help make the plan work.</p> <p>The DoH is thinking of making Personal Education Plans part of the law here.</p> <p><i>What should Trusts do to help children in care with their education? How should they ensure that that education or training is not disrupted?</i></p> <p><i>What else would help children in care do better at school?</i></p> <p><i>Should we make it a law that Trusts should do more to help children in care with their education and make sure that education or training is not disrupted?</i></p> <p><i>Should we make Personal Education Plans part of the law?</i></p>	<p>GROUP DISCUSS AND VOTE</p>
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<p>5. SUPPORT TO INDEPENDENCE</p> <p>Going the Extra Mile Scheme or GEMS 2.12.4 P59</p> <p>SUPPORT TO 25 2.12.7 P60</p>	<p>We have a scheme in NI called Going the Extra Mile or GEMS. It allows young people in foster care to stay on in that placement with ongoing financial and other support from their Trust if they are in education, training and employment until they are 21.</p> <p>In this consultation you're being asked if GEMS should be brought into law – there are some benefits to this, eg if it was in law, the money to fund it would have to be secured.</p> <p>But could it be a better scheme? What about young people leaving children's homes and the options available to them?</p> <p>In other parts of the UK, care leavers are supported up to the age of 25 if they want or need that support. Do you think care leavers in NI should be offered support to 25 in this way? Why and what might that support look like?</p> <p><i>Should GEMS be brought into law?</i></p> <p><i>Should support to care leavers up to the age of 25 be provided if they want it?</i></p>	<p>GROUP DISCUSS AND VOTE</p>
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