



Northern Ireland
Assembly

COMMITTEE FOR
HEALTH, SOCIAL SERVICES AND
PUBLIC SAFETY

OFFICIAL REPORT
(Hansard)

**Adoption and Children Bill:
Departmental Briefing**

16 November 2011

NORTHERN IRELAND ASSEMBLY

**COMMITTEE FOR
HEALTH, SOCIAL SERVICES
AND PUBLIC SAFETY**

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Members present for all or part of the proceedings:

Ms Michelle Gildernew (Chairperson)

Mr Jim Wells (Deputy Chairperson)

Ms Michaela Boyle

Ms Paula Bradley

Mr Mickey Brady

Mr Gordon Dunne

Mr Mark H Durkan

Mr Sam Gardiner

Ms Pam Lewis

Mr John McCallister

Mr Kieran McCarthy

Witnesses:

Mr Sean Holland

Ms Eilís McDaniel

Ms Frances Nicholson

) Department of Health, Social Services and Public Safety

The Chairperson:

I welcome Sean Holland, the Chief Social Services Officer, Eilís McDaniel, the acting director of the childcare directorate, and Frances Nicholson, a social services officer. As usual, we will invite the witnesses to make a presentation and then take questions from members. It can be a bit hard to hear when sitting in the Public Gallery, but I hope that you were able to hear Assembly

researcher Lesley-Ann answer questions on her research paper. Fire away.

Mr Sean Holland (Department of Health, Social Services and Public Safety):

Good afternoon. Thank you very much for the opportunity to provide members with an overview of the proposals for the reform of adoption. It is intended that the required changes to legislation will be taken forward in the Adoption and Children Bill. It is also the Department's intention to take the Bill forward in the current Assembly mandate, with introduction planned for 2013. In response to a query from the Committee, we explained that the additional time is required to enable us to instruct on a new Bill, have it drafted by counsel and consult on it publicly.

Committee members have been provided with a short briefing paper on the key adoption reform proposals. With your agreement, it is my intention to take you through those proposals in more detail and to provide explanations and answer questions where necessary.

Not all the required changes to our adoption system will need legislation. Some will be brought forward on an administrative basis, and some that we originally thought needed legislation may, subject to agreement, be brought forward on a non-statutory basis. I can explain that in more detail later. All the proposals were consulted on in 2006, when the Department published a draft adoption strategy, 'Adopting the Future'.

A considerable period has elapsed since the Department consulted on a draft strategy. We consulted in 2006 and published our response to that consultation in 2007. We are now in 2011, with an intention to introduce legislation by 2013. In the intervening period, we moved from direct rule to a devolved Administration. That required us to take a fresh look at the legislation, and we had to go through the policy clearance system, including clearance by the Executive, from beginning to end. In the course of clearance, the existing legislation was subject to legal challenge, which resulted in a House of Lords ruling, and there is now a judicial review of the existing adoption legislation. It is fair to say that the path has been anything but smooth, but it is also fair to say that things have not stood still.

The Department and the Health and Social Care Board (HSCB) are progressing several initiatives to improve adoption services across the region, including the development of adoption standards; the establishment of a regional adoption and fostering service that will centralise training and recruitment services; the establishment and continued development of an adoption

regional information system (ARIS) — a database designed to facilitate earlier placement — and the allocation of funding to provide a regional, independent birth-family support and counselling service for adoption. That service includes individual counselling to birth relatives; provision on adoption; support, mediation and advocacy for parents who oppose the plan for adoption; and a signposting service for birth families to other support services. Also, the implementation of the Executive’s looked-after children strategy, Care Matters, is continuing.

Although time has not stood still for adoption in Northern Ireland, there has been a significant time lapse between consulting on proposals for adoption legislation reform and bringing a Bill forward. As a result, we need to be assured that those proposals remain fit for purpose. Also, adoption reform in other parts of the UK has been given some time to bed in, and we are keen to take advantage of any learning that can be gathered from the experience of those other jurisdictions. We are doing that through a series of meetings with officials responsible for adoption in Whitehall and in the other devolved Administrations. That may lead to some further changes in our thinking or approach, but I assure you that any changes to what is being proposed and presented to you today will be consulted on and brought before you for further consideration before the introduction of any legislation.

The Committee is aware, as the Chairperson said, of an ongoing judicial review of the existing adoption law and guidance by the Northern Ireland Human Rights Commission. The briefing paper provided to the Committee sets out the main grounds on which the judicial review was taken, and I thank members for agreeing not to consider or question us on matters currently before the court.

Why should we change the law on adoption in Northern Ireland? The excellent presentation from the Assembly researcher gave an insight into the many reasons why it is appropriate. It is worth noting that the legislative framework for adoption is contained in the Adoption (Northern Ireland) Order 1987, which is based on English legislation that was drafted in the early 1970s. Therefore, it reflects practice that is, effectively, 40 years old.

Since then, there have been radical changes in the numbers of children needing adoption, in their backgrounds and needs and in general childcare law and practice. It is fair to conclude that we have an antiquated system, which can sometimes fuel conflict between the rights of birth parents and the best interests of children. It also fosters an adversarial court system, which can

result in damaging, protracted and costly court cases.

It is not too much to say that the system is struggling to cope with the demands of modern adoption, which can sometimes be at the expense of the children and families involved. Also, the 1987 Order was developed prior to other significant developments, including the UK's ratification of the UN Convention on the Rights of the Child (UNCRC), the introduction of the Northern Ireland Act 1998 and the incorporation of the European Convention on Human Rights into domestic law. Those developments have served to highlight the extent to which our existing legislation is outdated and to emphasise the need for change.

As the Assembly research paper pointed out, adoption usually takes place in one of the following circumstances: step-parent family adoption; inter-country adoption, in which children from abroad are adopted by Northern Ireland citizens; and placement adoption, in which children are placed by adoption agencies with people approved to adopt. Most adoptions fall within the final category, and, contrary to popular belief, the majority of children being adopted today in Northern Ireland come from our public care system. Those children often have difficult family backgrounds and, in many cases, much more complex needs than children adopted 40 years ago. Indeed, children adopted today are often much older than was the case 40 years ago.

We have more than 2,500 children in our care system, and it should be emphasised that most need to spend only a short period in care. It is very important that we emphasise that admission into care is often a temporary and positive experience to support a family continuing to care for children, but some children will not be returned. For those 2,500 children, fostering is the main option, but some are placed in children's homes, and others in that category may be at home with their parents being monitored while technically in care.

For children who need to be looked after for long periods, permanence is one of the greatest determinants of positive outcomes. Studies show that adopted children outperform children in care on a number of measures of development and that earlier adoption is associated with greater gains. Thus, we need to reinforce the message that, at the first point at which it becomes evident that there is no likelihood that a child will be able to continue living with his or her birth family, adoption, among a range of other permanent options, should be actively considered.

We absolutely need a system of adoption that works for those children and offers them a better

chance of a better life. That is more likely if we have a system of adoption that places the child at the centre of the decision-making process; reduces the time taken between adoption being identified as the best option for a child and the completion of the process; and offers better support to those seeking to adopt, those who have adopted and parents who, for whatever reason, have given up their children for adoption or had their children removed from their care for adoption.

The key objective of the Adoption and Children Bill will be to modernise and reform the legal framework for adoption better to meet the needs of children and families today. The Bill will be substantial in size and complex in nature and will contain a range of prescribing powers. It is likely that it will raise significant issues about children's and family policy in Northern Ireland. Consequently, the Bill will, without doubt, require long and detailed consideration by the Committee during its passage.

I am conscious of the time allocation for a presentation to the Committee, and I suspect that I am close to my limit. This is not an easy subject to cover with any brevity. I am happy to continue to take members through each of the key legislative proposals in more detail, and I am prepared to do that. Alternatively, I am happy to end the presentation, which will allow us to explain those details through questioning at the Committee's discretion.

The Chairperson:

In the first instance, more detail would certainly be very helpful. If you have a written presentation, Sean, we would be glad to get copies of that in case we do not cover it all by way of questions. A number of members have indicated that they wish to ask questions, and I am keen to allow them to do so.

Mr Gardiner:

I declare an interest. As my daughter-in-law is involved in getting people into care, I will not participate.

The Chairperson:

No problem, Sam, I appreciate that.

Mr McCarthy:

Thank you for your presentation. We fully support the work in which you are engaged. You said that the process would be completed by 2013 at the earliest. Is that correct?

Ms Eilís McDaniel (Department of Health, Social Services and Public Safety):

Yes.

Mr McCarthy:

It takes nearly one year longer for an adoption to complete in Northern Ireland compared with England and Wales. It is imperative that we take all appropriate measures to shorten that time frame and provide child-centred policy in which the needs of the children are put first. Would you like to comment on that time difference?

Mr Holland:

The earlier presentation by the Assembly researcher confirmed what we know from our research, which is that adoptions are taking longer in Northern Ireland than in other parts of the UK. That is not surprising, given that we operate under a legislative framework that is similar to the pre-reform legislative framework in other parts of the UK. When they introduced their new legislation, one of their particular policy objectives was to reduce that time delay.

Probably more important than the technical issue of exactly how long it takes to adopt, however, is why it is so important to reduce the time delay. A significant change in the past 10 years has been our growing understanding of child development and, in particular, what can have a lifelong negative impact on the lives of children. Increasingly, we have come to understand that the earliest point at which children can achieve a stable attachment to adult carers has a profound impact on how well they will do in adult life. I do not mean to be melodramatic, but the longer the delay in the process, the more we rob that child of life chances, and that will live with them for the rest of their lives and, indeed, with the rest of society. That is why it is an absolutely crucial issue. My comment, therefore, is that the time difference reinforces the need for reform.

Mr McCarthy:

Thank you. I have a couple of short questions —

The Chairperson:

Nearly everyone has indicated that they wish to ask questions, Kieran, so may I come back to you at the end?

Mr McCarthy:

Sure.

The Chairperson:

OK — good man.

Mr Wells:

I know quite a few couples who have tried to adopt babies. I cannot understand the statistics. So many couples were chasing the adoption of a baby, but many children were not being adopted. As a child gets older, he or she becomes, to use a very awkward phrase, less and less attractive to potential parents. I cannot think of any other words; you know what I am getting at. It was obvious to anyone that those couples — teachers and nurses, for example, who were settled and happily married — would have made excellent parents. However, I heard about the extremely security intrusive and complex checking and assessments that they had to go through. Frankly, if truth be known, I considered it to be traumatic for them. Is part of the reason why the process is so slow in Northern Ireland because we over-egg the pudding, as it were? Do we simply go far too far? It strikes me that, although none of those checks is needed for those having the baby being given up for adoption, the poor couple who come along and are recommended as parents by everyone are put through the mill? Then, of course, as we know, the chances are that a child will not be available. All three couples whom I know then went through the same processes and adopted abroad. Clearly, they were up to the mark, as it were, in a UK context. Are we just slow because we are inefficient rather than because of legislation?

Mr Holland:

Deputy Chair, you raise a number of significant points. I will start with the adoption of babies. As the research paper pointed out, the number of babies available for adoption has fallen dramatically. We probably all understand that many couples who wish to adopt want to do so in a situation that mirrors as closely as possible that of a natural birth family. Therefore, the attraction is to a baby, which I understand fully. However, the fact is that although, in the post-war years, single parenthood was considered socially unacceptable, it no longer carries the same

stigma, and, for very positive reasons, the number of babies available for adoption has fallen significantly.

I also fully understand those experiencing frustration. I know couples who are trying to adopt, some of whom are childless couples for whom there is no alternative to adoption. It is a very painful and frustrating experience to enter what must feel like a bureaucratic nightmare when people want to provide, and believe that they can provide, a loving home for a child. However, it is important to remember that the adoption service is not for the benefit of parents or adults; it is for the benefit of children. Adoption is not about meeting the needs, for example, of childless couples. It is a wonderful synergy that the needs of a childless couple may facilitate an outstanding way to provide a loving home to a child who needs one. However, the adoption process is about meeting children's needs, not the needs of parents.

I understand that people do not undergo tests before they are allowed to have their own children, nor should they. However, when the state is taking the action of placing a child, I believe that it is incumbent on it to be absolutely certain that every measure has been taken to ensure the suitability of that placement. I do not wish to introduce a dark note into the discussion, but people who are, perhaps, unsuitable to care for children in any setting do not tend to be open about the fact, so it is important that the process is careful and rigorous.

That said, you are right that we can reduce the delay, which is why the legislation has specific proposals aimed entirely at doing just that. In particular, I referred to proposals to change the arrangements for freeing orders, which the Assembly researcher mentioned. At present, that process happens before a child is placed for adoption, but it extinguishes the legal relationship between birth parent and child. Probably one of the most serious interventions that a court can make in a family's life is to sever legally the relationship between a birth parent and his or her child. For that to be done completely and irrevocably is, inevitably, a process that is frequently highly contested and one that can be very time-consuming. One of the central proposals in the legislation is to replace that freeing order process with a more flexible process. By its very flexibility, it is anticipated that it could be achieved more quickly. With the Committee's permission, I will hand over to my colleague Frances, who will speak in a little more detail about the specific nature of the provisions aimed at reducing delay.

Ms Frances Nicholson (Department of Health, Social Services and Public Safety):

The main reasons for delay are in the making of placement orders. The legislation will, we hope, enable the setting of court timetables and the making of placement orders within a certain period. It will address issues in the court and the standards that agencies should meet.

The Bill will also introduce the paramountcy of the child principle to adoption legislation. That principle was introduced in the Children (Northern Ireland) Order 1995, and its introduction will sync the adoption legislation with that order. Sean made the point that the service is for children, so the welfare of children must be paramount in the new legislation. It is hoped that, with paramountcy as a key principle, court issues will become clearer, and the arguments about a birth parent's rights and prospective adopter's rights can be overridden.

The other key aim is to speed up the process generally. There will also be a welfare checklist similar to that in the 1995 Order, but with additional points about the gravity of severing the relationship with the birth family and considering, at an early stage in the process, the implications of that for a child throughout his or her life. It is hoped that those two main elements — the paramountcy and the welfare checklist — will clarify issues in court and agencies and that there will not be the same legal contests.

Mr Holland:

I will ask Eilís to cover some additional measures to reduce the layers that relate to judicial timetabling and suchlike.

Ms McDaniel:

Apologies, I am losing my voice. The intention is to introduce a statutory principle that would require courts and adoption agencies, which, in the main, are the trusts in Northern Ireland, to bear in mind that, at all times, any delay in decision-making in the course of the adoption process is likely to be prejudicial to a child's welfare. That is an important principle to place within the new adoption framework, and it is likely to lead to reduced delays in the adoption process.

Mr Holland:

Members may be aware of the recent publication of statistics of variable performance of authorities in England in relation to delay. That is seen as a way of trying to performance-manage the system to reduce delay, and this provision would allow us to do something similar.

Mr Wells:

I will chance my arm here. Can anything be done, in the intervening two years before the legislation is introduced, to try to speed up the present procedures? Some delays are the result of a legislative deficit, but others are, frankly, the result of the system not being efficient.

Mr Holland:

Some steps have already been taken, Deputy Chair. I mentioned in my opening presentation the introduction of the ARIS system. Indeed, I think that some Committee members were present at its launch in the Long Gallery. That is a regional arrangement to ensure that placements are matched more efficiently and effectively, and it is already in place. Eilís, are there any other points that you would like to add?

Ms McDaniel:

That is exactly what the new regional adoption and fostering task force is doing. It is considering ways of securing better collaboration across the region and ensuring greater consistency and efficiencies in the fostering and adoption systems. That task force, led by the Health and Social Care Board, is already in place and working.

Mr McCallister:

I want to pick up on Jim's point, but I have not been able to think of a better phrase than "less attractive" either. Sean, is there any evidence in the system of children missing out on being adopted and becoming, to use Jim's phrase, "less attractive" to adopters? Have some children missed out on adoption and had a much worse outcome because they went through the care system? Perhaps they were identified as being likely to need an adoptive parent, but the system was so slow that they became "less attractive" — that is a terrible phrase — to an adoptive couple. Once past a certain point, as you correctly identified, it becomes much more difficult for children to be adopted, which means that we have trapped them in the care system because the entire system has been so slow.

Mr Holland:

My colleague Eilís will answer that question substantively, but we need to be open about and acknowledge one other point. Age is not the only difference in the type of children whom we seek to place for adoption. The Chair spoke most eloquently about the circumstances of children

who come into care. Children who come into care tend to come from experiences that have traumatised and marked them. We talk about the holy trinity of domestic violence, parental mental ill health and parental alcohol and drug abuse as frequent features, both individually and in combination, in the lives of children before they come into care. As a result, when children come into care, their needs are often quite significant, and many people who would be prepared to adopt a baby, preferably one as newly born as possible, do not always feel able, for understandable reasons, to take on the challenges that those children bring.

The time factor is certainly an issue, and Eilís will talk to you a little bit about that, but it is important to recognise that the nature of adoption and the nature of children coming forward is so different from the situation, say, in the 1950s, that — I hesitate to say this — using the same word to describe the process may even be a little misleading.

Ms McDaniel:

John, many children are adopted by foster carers. One key thing that we could do, and this has been considered among a group of people established to oversee the implementation of legislation, is to reduce the length of time that foster carers are required to have a child in their care before they can apply to adopt. At one stage, there was a proposal to reduce that to a period of one year. That is an example of what can be done to ensure that we do not miss the boat when it comes to some of those children.

Mr McCallister:

I take Sean's point about children who have had an extremely difficult start in life. Most members want to get them into a loving, caring home to begin the process of a normal family life. Is the process much the same across the board in Northern Ireland, or are some trusts better than others?

Mr Holland:

I have to be honest; I do not have information on regional variation. I am not sure whether my colleague can put her hand to it, but I can say that you hit on an important point, John. It is important that, wherever possible, we make sure that we concentrate expertise to ensure that people can perform as well as possible. In other areas of childcare, we found benefits in making sure that we allowed teams to become expert in the work they do. If everyone tries to do a little bit of something, no one is likely to become an expert. We have been working at trying to

regionalise aspects of the service for which it is appropriate to do so in an attempt to ensure that we raise performance across the region.

Mr McCallister:

I should have asked Lesley-Ann my next question when she was here. Her research paper shows that the Southern Health and Social Care Trust granted a significantly higher number of adoption orders between April 2010 and March 2011. I wonder whether that trust was doing something particularly outstanding to be so far in front, bearing in mind that Belfast has a much higher population.

Mr Holland:

If it would please the Committee, I would be happy to respond in writing with an analysis of variation.

Mr McCallister:

On the back of Jim's point, that may be of interest in case one trust or area is doing something that could be implemented immediately, or in the next few months, rather than waiting for the legislation.

Mr Holland:

I am happy to provide a written analysis.

Mr McCarthy:

How will the Bill affect, if at all, the adoption of children and young people with a physical or learning disability? Will you give some more detail on the special guardianship that you mentioned and on the profile of the groups of children and young people to whom that refers?

Mr Holland:

Central to the proposals for legislation is that the principle of paramountcy is introduced and that the whole process becomes child-centred. Although that does not specifically reference the children with a physical or learning disability whom you mention, it is intended to ensure that the process wraps itself around the individual needs of the individual child. I cannot help but believe that that would be to the benefit of children who have particular needs, whether their disabilities are of a learning or a physical nature.

With special guardianship, the intention is that we provide an arrangement that allows for greater flexibility. There are children in the care system who require permanence and want to be a part of a non-birth family but do not necessarily want to sever all the relationships, including the legal relationships, entailed in a full adoption. Special guardianship is about giving us a greater, more flexible range of measures to offer in that situation. I will ask my colleague Frances to talk in more detail about that.

Ms Nicholson:

The key element is that special guardians can exercise parental responsibility to the exclusion of others. So it is probably most helpful in a situation in which, perhaps, an older child does not want to sever all legal links with his or her birth parents. In other words, children may want to keep their name or maintain the legal tie but do not have a lot of day-to-day contact with their birth parents. They may be living in a foster home and would like their foster carers to exercise parental responsibility to the exclusion of their parents. Thus, the foster parents can agree to all the day-to-day issues, such as school trips and surgery. The order will, we hope, be very useful in that type of situation.

We also hope that it might be useful in kinship situations, in which, for example, a grandmother is caring for her grandchild because her daughter or son is going through some difficulties, perhaps with drugs or alcohol. The order would mean that the grandmother could become the special guardian and exercise that parental responsibility to the exclusion of her child. That will not be without a lot of intense emotion, and so forth, so it is not a panacea for every situation, but we hope that it adds to the flexibility of the orders available and gives an increased sense of permanence for some children when full adoption is unnecessary or unwanted.

Mr Holland:

Let me add one point, which is that there is another advantage to special guardianship. I do not want to use the term “halfway house”, because that makes special guardianship sound like a compromise, but it allows children to have the best of a few different worlds. It allows them to enjoy the stability of a long-term placement while maintaining a legal relationship with their birth parents. Also, it no longer requires the frequent involvement of social services in their day-to-day lives that a regular care order involves. Many of those placements are extremely settled and stable, so it can be intrusive to have social workers visiting once a month and conducting looked-

after children reviews when everything is going very well. It allows the flexibility to respond to an individual child's circumstances in those ways.

Mr McCarthy:

That is very useful.

Mr McCallister:

On that point, I am quite interested in that situation, which is halfway between fostering and full adoption. You mentioned drug and alcohol abuse. If a birth parent subsequently got his or her life back on track, could the situation revert? As special guardianship does not constitute full legal adoption and legal severance, would the order or kinship end and care return to the birth parent?

Ms Nicholson:

Yes, it could, but not without being emotional, naturally, for a child, who may have been living for a considerable period with grandparents by then, which brings us back to the key principle of paramountcy. We must take great account of a child's wishes and feelings. We must hear what a child says and wishes.

The Chairperson:

Presumably, the child is the person whom you ask first.

Ms Nicholson:

Absolutely.

The Chairperson:

Family conferencing is one of several ways of getting the best arrangement for a child, in what is hoped is an interim situation that may become more permanent. Again, the wishes of a child, no matter what age, would be taken into consideration.

Why are people not allowed to be on the inter-country adoption list and the domestic list at the same time? I asked Lesley-Ann about that earlier.

Ms Nicholson:

It is a policy issue. People who intend to adopt a child from a different country need to consider why that child is available for adoption in that country. They also need to explore what they know about the country, because a child will have to grow up in a culture totally different from the one into which he or she was born. So people need to be willing to explore all the cultural issues in that country and, perhaps, to take a child back there at a later stage.

Inter-country adoption is very different from domestic adoption in terms of finance, and so forth. However, that is not to say that people who are approved for inter-country adoption but decide that they have been waiting too long cannot move from that list to the domestic list. With inter-country adoption, we always have to remember that we are at the behest of the sending countries, whose legislation can change at any time. Many people are waiting to adopt in Thailand, for example, but the situation there could change. People may, therefore, decide to move from the waiting list for Thailand to the domestic list. If they do so, their assessment would be topped up by considering the issues affecting the children available for adoption in Northern Ireland today. As we have already explored, the children here are usually older and have many issues in their backgrounds. They may also have needs such as contact with birth family members, and so forth, which would be different from the needs of children in Thailand.

The Chairperson:

Hypothetically, if someone adopted a baby of less than one year old from Thailand and then decided six or seven years later that they wanted to foster or adopt an older child, would they get onto the local list at that stage?

Ms Nicholson:

Yes. Their application would be treated as a second application for adoption and assessed as such.

The Chairperson:

Can someone be on two inter-country lists at the same time?

Ms Nicholson:

No. Again, when people apply to adopt, the whole domestic adoption situation and the inter-country adoption situation are explored with them, a process that can be responsible for some of

the delay. However, that process is about exploring with the applicants what they want to provide or what kind of child they would like to adopt, and it does take some time. Inter-country applicants are asked to explore a child's country of origin, because they will have to go there, perhaps on more than one occasion, and will certainly have to visit the country to bring a child home. So they really need to be in tune with the situation in that country.

The Chairperson:

I am sure that you are aware of my correspondence with the previous Health Minister, Mr McGimpsey, about a constituent who tried to go down the inter-country route. The family were top of the list, but a family member was then given a cancer diagnosis. The family were concerned that they would go back to the bottom of the list, because the legislation in the country from which they were to adopt had changed. The family accepted that they would have to wait until they got a clear prognosis from their oncologist, but they went through a very traumatic time. It was clear from the Department's answers that it could not get involved in the legislation of that country. However, that was very frustrating for my constituent and for me, because here was a family able to give a child a loving home but, through no fault of their own, they were in a very difficult position.

I suppose that I should take exception to something that the Deputy Chair said earlier. It is not just professionals who are able to be good parents and provide loving homes. It is not only teachers and nurses who are capable of providing a child with a good home; a wide range of people are capable of doing so.

Mr Wells:

I did say that. May I make it absolutely clear that there was absolutely no intention to indicate that people who are not professionals do not make very good parents? I think that there would be a few writs flying had I said that.

The Chairperson:

I just wanted to clarify that. I believe in the need to provide support for parents who are struggling, and we mentioned Home-Start to the Department. It is important to enable families to remain together, give them the correct support and recognise, perhaps when an intervention at that level does not work, that there are proper, experienced social workers on hand to help with the decision-making process. I asked Lesley-Ann about kinship care and the special guardianship

arrangements. Will you clarify, one way or another, whether people fostering a relation are treated in the same way as if they were fostering a non-family member? If people end up fostering their grandchild, nephew or niece in their home, is that the same as or different from stranger fostering?

Mr Holland:

I will be guided by colleagues who have more expertise in that area. Certain situations can be described as private fostering arrangements, for which people will not necessarily receive any allowances. However, a relative assessed by social services is entitled to support, payments and benefits. We proactively try to identify extended family members who can provide care, because we recognise the benefits of not taking children out of an extended family and placing them with a completely new family.

Ms McDaniel:

In 2009, the Health and Social Care Board produced guidance that makes that point very clearly. It states that children who are placed in kinship foster care arrangements are to be treated, for all intents and purposes, as looked-after children and are entitled to the same allowances, and so forth, as stranger foster carers would be entitled to. The Department is in the process of developing kinship foster care standards, which will clarify the arrangements for kinship foster carers, particularly on the issue of allowances.

The Chairperson:

If and when that arrangement is cranked up to a special guardianship arrangement, what happens then?

Ms Nicholson:

It is envisaged that special guardianship allowances will be introduced.

The Chairperson:

For kinship care?

Ms Nicholson:

Yes. However, the key consideration is that some private arrangements exist in which the boards and the trusts have not been involved. If it is a private arrangement, those carers do not get

allowances.

Mr Holland:

I will give you an example: a single parent who has decided to work abroad may arrange for his or her brother or sister to care for his or her child as an entirely private matter. No allowances are paid in those circumstances.

The Chairperson:

Is that the case even if something happens to make that arrangement permanent? Do you not grant allowances retrospectively? Say, for example, that someone goes into a drug addiction unit and a family member takes on the care of that child, but the person receiving treatment does not get better, or dies. What happens to the child and the arrangement, which may have started out as temporary and private but became permanent and full-time? Can you retrospectively grant those families the allowance to help them to raise that child?

Ms Nicholson:

The trusts and boards would consider that situation. However, if the trusts and boards were not involved in the placement of the child with the relative — in other words, the child was never brought into the care of a trust or board — an ongoing assessment of the situation would be required.

The Chairperson:

Families will do anything to keep their children out of the system. They will make whatever sacrifices are necessary, perhaps in the belief that the situation is temporary, to keep their loved ones out of the care system. You say that that puts them at a serious disadvantage. I am thinking particularly about a parent who may be of an age at which he or she is not working and cannot afford to raise a child or teenager without some support, but the best thing for that child or adolescent is to be placed within the extended family. It seems very unfair that those children and their carers would not be brought into the system in some way and given financial support. We all know how expensive it is to raise a child. If people think that they will be taking care of a child for six weeks, but that becomes six months or six years, it is then a very different arrangement.

Ms Nicholson:

All those situations would be assessed, but certain state benefits, such as child benefit, can transfer in those situations.

The Chairperson:

As you know, child benefit is tuppence compared with what it costs to raise a child. As a beneficiary three times over, I know that no one will go to the Bahamas on the back of child benefit; that is for sure. I am trying to tease out the inequalities of the situation, because those are the kinds of issues that need to be addressed in the legislation. Has there been any consultation on those issues? We all do things for what we believe are the right reasons. However, an elderly person who does so might end up with a financial burden lasting for 13, 14 or 15 years. The best interests of a child might turn out to be contrary to the best interests of a carer.

Mr Holland:

The standards to which Eilís referred would, I hope, provide greater clarity in the situations that you describe. If you have specific queries about particular circumstances —

The Chairperson:

No, that was a hypothetical example. However, I can see it happening in many circumstances. All of us see it happening in our communities and constituencies. I am not describing a scenario that is alien to any of us. Some people carry a serious burden because they are trying to do the right thing by a child. They can end up with a lifetime burden that they did not anticipate. I am looking around the room: does anyone think that I am barking up the wrong tree?

Some people do not declare to social services that they are looking after a grandchild because they are afraid that the child will be taken away from them. You are shaking your head, Frances, but there is that fear. My parents ended up looking after children on a temporary basis, but they would have moved heaven and earth to keep them out of the care system. If people act in that way to ensure that children are not taken away from the extended family and retain the best option of returning to their parent or parents, how do they contact social services when that option is no longer viable? How do they go about rectifying the situation, with a view to their position becoming permanent, without being fearful of the consequences?

I am not trying to criticise or scaremonger. I have a nephew involved in social work, and I

know that it is a really difficult occupation. The spotlight is on social workers when things go wrong, and there are no thanks when things go right. I do not think that social workers are bogeymen, but some people do, and they will do anything to keep a child out of the system and ensure that he or she is not taken away. How do they rectify the situation to get the support that they need?

Ms P Bradley:

Generally, social workers want to keep children with their families. That is paramount; it is first and foremost. As you say, Chair, if I were in that position, I would be more than happy to take care of a relation. I have nothing to hide or fear, so why would I fear social services?

The Chairperson:

Some people do.

Ms P Bradley:

Why? It is the same with elderly care. We talk about keeping people at home and keeping them independent. It is exactly the same with children. We want to keep them in the family unit, and so do the families. Why do people fear that?

The Chairperson:

In an ideal world, people might not be fearful, but what about people who have been dealing with a son or a daughter going through particular issues? They already feel as though they are caring for a child in a tense situation and trying to act in the best interests not only of their grandchild but their child and trying to do the right thing by everyone. There is a generation that would not be comfortable saying to their GP that they needed help and that a child may need a more long-term arrangement than the one that they are providing. The worry is that a social worker might assess a grandparent as not being physically able to look after a child. People simply do not know what will happen, and it is the fear of the unknown that can drive them to make decisions —

Ms P Bradley:

There would need to be a very good reason for a social worker to decide that that was not the best place for a child.

The Chairperson:

People will not know that unless they have had that experience.

Mr Brady:

There is a residual distrust. I have worked in the advice sector for a long time, and I call that distrust “brown envelope syndrome”. People get an envelope from a social security office or whatever and are almost afraid to open it. I have witnessed that residual fear. I remember a case, from many years ago, of a girl whose electricity had been cut off. She would get up in the middle of the night and go to her sister’s house to heat a bottle to feed her child because she was afraid of social services becoming involved. Things have, fortunately, changed, but there is an inherent, underlying fear. In fairness, social services have, over the years, done a lot to lessen that fear. However, it is still there; it is just part of the society that we live in. Therefore, the point about fear is a valid one. It is not a criticism of social services, because my experiences over the years have been and continue to be good. As the Chair says, social workers get no praise when things go right but are hammered when things go wrong. People’s fears are real, and although their fears are being addressed, it will take a bit longer for a generation to get away from them.

Ms Lewis:

I fully agree with those sentiments. I understand that Paula is from a social work background. As you said, Chair, people fear the unknown. We hear parents threatening their children with social services.

Ms P Bradley:

That is dreadful behaviour.

Ms Lewis:

It is dreadful behaviour, but it reflects the fear out there. When people neither understand nor have experience of something, they tend to be afraid of it. A PR exercise might be required to rectify that.

The Chairperson:

It will work itself out. However, the people relied on to provide support are the most fearful. Our generation and the younger generation do not have the same hang-ups, but I know that some people do.

Mr Holland:

I thank the various Committee members for their positive statements supporting the social work profession and social services. On a serious note, it is important to hear such comments, because they help to dispel the myths to which you referred. The way in which social services operate, particularly in family and childcare — supporting families to bring up children and protecting children when they need to be protected — has changed dramatically. It has certainly changed an awful lot since I was in front-line practice. There is now an emphasis on the extended family members whom you spoke about, and they are always looked to as potential partners in providing care arrangements. Family group conferencing was also mentioned. If there is a negotiated arrangement through that process and children are placed, people are entitled to payment, as would any other stranger foster carer.

However, private family life must also be recognised. Some families wish to enter into an arrangement and do not want to be paid. They see it as a private matter and wish to deal with it as such. As long as that is safe and within the regulations on private fostering, why would we interfere if people do not want us to?

Your third point, Chair, was about the benefits system and the benefits available to people who bring up children. It is a worthy point, but it is not the role of social services to determine benefit levels. As I said, we will pay to support placements that we have made, but the nature of universal benefits is another remit.

The Chairperson:

I will draw the session to a close. Kieran, are you happy enough that you got all your questions in?

Mr McCarthy:

I am indeed. Thank you very much, unless you want some more?

The Chairperson:

No. That is fine.

Mr Durkan:

Does the panel share my view that, in the absence of new legislation, the situation can only worsen?

Mr Holland:

I would not want to draw a connection between the circumstances of an individual child and the passage of legislation. However, we believe that provisions in the new legislation can, for example, reduce delay and introduce a more flexible range of options to meet the needs of children. Some children would be disadvantaged by that legislation not coming forward. That is why I anticipate working very closely and spending a lot of time with the Committee as we work together to get the legislation through.

Mr Durkan:

Thank you, Sean. Do you anticipate any surge or increase of any description in the numbers of children in care? The Committee for Social Development gives much consideration to the impact that welfare reform will have on the most vulnerable. I am not saying that people on benefits are the worst parents. How might the legislation affect people's ability to care and provide for their children?

Mr Holland:

I do not believe that the adoption legislation will affect the numbers of children needing to come into state care; other factors influence that. Currently, there is a small percentage increase on the previous year in the number of children coming into state care. Over the past couple of years, a range of factors has been influencing the admission of children into care. The new legislation responds to the needs of children who have already made the transition into care. I do not think that anything in the legislation will either increase or decrease the number of children with needs to which the state is required to respond in that way. However, once a child is in the care of the state, the Bill's passage will help us to respond more quickly and effectively to meet his or her needs.

Mr Brady:

I want to reinforce the point that, as mentioned several times, the most important consideration is the paramountcy of the child. For some people, there should be a partnership to work towards that. People see that social services have the advantage in legislative terms, and therein lies the

difficulty. The Children Order 1995 reinforced that for some people, and it is right that legislation should reinforce the “power”, if you like, that social services have for the care and protection of children. However, there is still an undercurrent of feeling that social services have almost a divine right. That is being addressed, but it may need to be addressed further.

Mr Holland:

The 1995 Order is large and complex legislation. When I was taking children into care, I was able to do so with far less scrutiny and overview from the judiciary and others. Quite rightly, it has become much more difficult to take children into care. “Difficult” is the wrong word. When a child needs to come into care, he or she can be brought into care. However, the idea that a social worker can act autonomously in doing so has changed dramatically. Under the old 1968 legislation, a place-of-safety order was required. I see you nodding, Chair, although you are too young to remember that legislation, so you must have been told about it. Social workers had to go to a justice of the peace, who would sign that order, and there was a maximum of three court appearances. The scrutiny, safeguards and checks and balances currently in place are far stronger than they were in the past.

Mr Brady:

I was not suggesting that that is not the case; I was simply stating what the perception is. Sometimes, perception is everything, and the perception of some is that the power is on the side of social services, but that is not necessarily the case.

Mr Holland:

The important place on which to put all our focus is the child. We should not look on these as adversarial relationships between the judiciary, social workers and families. We should always be trying to harness everyone’s efforts and energies to how we can best meet the needs of children.

The Chairperson:

Thanks a million for that, Sean, Frances and Eilís.