

Colm Gildernew MLA
Chair
Committee for Health
NI Assembly

By Email: Committee.health_AdoptionBill@niassembly.gov.uk

07/10/21

Dear Colm

Re: Adoption and Children Bill

The British Association of Social Workers Northern Ireland (BASW NI) is part of BASW, the largest professional body for social workers in the UK. BASW has 21,000 members employed in frontline, management, academic and research positions in all care settings.

BASW NI welcomes the Draft Adoption and Children Bill. The Association responded to the Department of Health (the Department) consultation on the original draft legislation in 2017 and was clear that review and reform of our adoption legislation was long overdue. The Department's *Adopting the Future* strategy, published in 2006, set out the case for legislative reform. Fifteen years on, the need for change is beyond urgent.

The dual aspect of the Bill—to incorporate aspects of the Children (Northern Ireland) Order 1995—is also welcome. We would encourage the Health Committee to progress this legislation without further delay.

In reading the analysis of options, BASW NI supports the Department's assessment to follow option 2. This is undoubtedly a huge and complex piece of legislation, with much of the detail left to be finalised via supporting regulations. BASW NI would want to contribute to subsequent discussions to inform the development of these regulations.

Clause 1. The approach of focusing the legislation on the paramountcy of the child brings this legislation into line with the Children's Order, and the principle of no delay is an important one.

Clause 4 and 5. One area we would highlight is the new duty of an entitlement of adoptive parents to ask for an assessment (Clause 5) and receive support services

(Clause 4). This is most welcome and BASW NI fully supports this requirement. However, its delivery will require additional resources. Delivery by the existing fostering and adoption services is not an option. Social workers were in crisis prior to the Covid-19 pandemic, with an over-reliance on agency staff to fill the increasing number of vacant posts. As a result, social workers are leaving the profession in more numbers than ever before. Findings of a survey of 1,600 social workers across the UK, conducted in 2018 by Bath Spa University, in partnership with BASW and the Social Workers Union, into the working conditions of social workers found 52% of UK social workers intended to leave the profession within 15 months¹. The social work workforce is also facing a ‘retirement bubble’—32% of the HSC social work workforce are aged 50 or older. The average age at normal retirement on the latest year’s HSC data was 61.1 years. This indicates the potential impact of retirements over the next five to 10 years is likely to be significant.

The requirement for Trusts to deliver an Adoption Agency will also need additional financial investment as existing services cannot simply accommodate this additional demand.

Clause 12. The Independent Review Mechanism in adoption determinations to be established is welcome. Consideration will be required concerning the administrative arrangements for this in Northern Ireland and BASW NI holds the view that it may be best to have a regional body carry out this function.

Clause 113. We particularly welcome the setting of timescales, “obliging courts to draw up timetables for resolving adoption cases without delay”, which has been long-awaited. Delay in the system is unacceptable for all involved, especially the children. Set timescales will hopefully lead to improved situations for children involved in adoption cases. Consideration should be given to what measures can be utilised if timescales are not met.

Clause 119. BASW NI welcomes the introduction of Special Guardianship Orders (SGOs) and the greater responsibility for carers without an Adoption Order. However, the Association would highlight the unintended consequences experienced in England, where some saw the introduction of SGOs as a means to withdraw support from families. This affected those outside the system of care and support as there was no longer a duty to provide assistance, however, carers are likely to still require financial support and access to a range of support services on an ongoing basis.

In addition to detailed regulations, implementation of SGOs will require guidance, and training within children’s services, public bodies and the voluntary and community sector. There will be a need for a multiagency approach including all stakeholders—incorporating the Judicial Studies Board and the Law Society—to ensure a shared understanding.

BASW NI’s engagement with members and partner organisations to inform its position has led the association to endorse the following position espoused by Action for Children concerning the introduction of SGOs:

¹ UK Social Workers: Working Conditions and Wellbeing (2018)
https://www.basw.co.uk/system/files/resources/basw_42443-3_1.pdf

SGOs will be an important addition to fostering, kinship care, residential, specialist provision, adoption and the use of residence orders where children cannot remain with their family of origin. Careful thought will need to be given in regulations and guidance to how assessments for SGOs are conducted and how decisions will be made. The wishes and feelings of children will be important. There is some discussion of the use of panels for decision making within Trusts and whether these should be specialist – fostering, SGO, adoption. This may not encourage a holistic assessment of all the options, which is what a court will want to see in the application for any order. It might be better to have a single Permanence Panel within Trusts that considers all options.

Clause 122. The duty to promote educational attainment is most welcome. Much has been achieved in terms of co-operation between the Education Authority and HSC but BASW NI believes this legislation will require additional commitments from the education sector to deliver on this aspiration.

Clause 123. This provides a consistent framework for corporate parenting to follow. This level of clarity and guidance is most welcome.

Clause 125. There will be a need for close partnership working in drafting the Regulations, Clause 125 regarding accommodation will need scrutiny to avoid NI repeating the mistakes of England where 16 and 17-year-olds were left exposed to risk in unregulated accommodation.

Clause 128. New Article 34DB sets out clearly the extension of support for care leavers to the age of 25. BASW NI fully supports this move.

Clauses 128-129. BASW NI is delighted to see this progressive step being brought forward. For many years, parents of disabled children who use respite have called for their children to be removed from the Looked After Child (LAC) system. Social workers also called for this change, which saw thousands of families forced into the LAC system when requiring one night's respite. BASW NI first highlighted the situation in 2012 in the report, *Social Work Not Paperwork*².

Clause 136-138. It is welcome, that following consultation, the Guardian Ad-Litem Agency will now be known as the Child Court Guardian. However, the extension of the organisation's remit will undoubtedly bring more demand to an already overstretched service. The Agency has already experienced increased waiting lists due to a growth in demand and it is important to note that additional investment in this area will be needed.

Concerns

BASW NI is disappointed that Clause 143 will revoke Article 181 of the Children Order, the Association notes the Department has decided to go for repeal despite 83% of previous respondents supporting a three-year report. BASW NI views this as a missed opportunity to provide oversight and political accountability for a protected group in society. The Children Order Review Board has ceased to exist and its replacement, the Shadow Family Justice Board, has not yet been sufficiently developed. We would

² https://www.basw.co.uk/system/files/resources/basw_123352-5_0.pdf

urge members of the Committee to seek to retain this requirement for scrutiny, alongside the Commissioner for Children and Young People and the United Nations Convention on the Rights of the Child. The Association's view is that repeal would be a retrograde step and send the wrong signal about the Assembly's priorities in relation to children and young people. We would urge the Committee to seek an amendment to Article 181, to be a three-year cross departmental report on the functioning of the Order and the needs/rights of children.

We would have liked to see the Children and Young People's Strategic Partnership (CYPSP) being placed on a statutory footing, there was widespread support for this option in the 2017 consultation. The CYPSP has been well established over several years and the rearrangement of the SBNI with a focus on child protection as a sub-group of the CYPSP, with a broader focus on family support, integration and partnership would have benefited the system. We understand that establishing a statutory basis for CYPSP is not within this legislation but would call for a clear timescale for taking the proposal forward.

It is essential that additional funding is provided to resource the services required by the draft legislation. Children's social work services are experiencing high levels of demand. For example, the Department's provisional Children's Social Services Data³ published weekly during the pandemic indicates there were 3,564 Looked After Children on 27 September 2021. This is a 6% increase on the pre-Covid figure of 3,362 (September 2019) and a 42% increase on the 2,511 looked after children a decade earlier (March 2011). Added to this, the vacancy rate for the HSC social work workforce is currently 8.5%, leading to increased workload pressures on staff. The system cannot simply take on any additional responsibility without an increase in resources to meet the enhanced workload.

This is complex and far-reaching legislation requiring a number of new duties. This will require training and there needs to be adequate time allowed for this. Freeing social workers up from frontline duty to undertake training, while essential, will ultimately increase pressures across the system.

In conclusion, this legislation is to be welcomed, the system urgently needs the reform it will deliver and the case for review has been well made. There is much to support in the draft Bill and we urge the committee to accept it. We have made comments and raised issues which warrant further discussion, but we do not wish to see the Bill falter at this stage. We are keen to engage in further discussions to finalise additional details via the necessary supporting regulations.

Yours sincerely



CAROLYN EWART
National Director, BASW Northern Ireland

³ <https://www.health-ni.gov.uk/publications/northern-ireland-childrens-social-services-data-during-covid-19-0>