



Committee for Health

OFFICIAL REPORT (Hansard)

Adoption and Children Bill:
Department of Health

23 September 2021

NORTHERN IRELAND ASSEMBLY

Committee for Health

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Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Mr Jonathan Buckley
Mr Gerry Carroll
Mr Alan Chambers
Ms Cara Hunter
Ms Carál Ní Chuilín

Witnesses:

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

The Chairperson (Mr Gildernew): I welcome back to the Committee Eilís McDaniel, who is director of childcare and family policy. Good morning, Eilís. Can you hear me OK?

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

The Chairperson (Mr Gildernew): I also welcome Julie Stephenson, who is head of the Adoption and Children Bill team. Can you hear us OK, Julie?

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

The Chairperson (Mr Gildernew): Lastly, I welcome Frances Nicholson, who is a social services officer. Can you hear us OK, Frances?

Ms Frances Nicholson (Department of Health): I can indeed. Good morning.

The Chairperson (Mr Gildernew): As we work our way through the session, it will be helpful if people use headphones. I ask panel and Committee members to remain on mute when they are not speaking. Given the complexity of the Bill, I ask that one member of the panel leads on an answer and then, if additional information is required, others may join in. Let us try to keep it focused in that respect. I ask members to be as succinct as they can with their questions and, likewise, the panel with answers. The Bill is huge, and a lot of questions will arise on it.

Eilís, do you want to outline how you will deal with the briefing, and then we will go to members' questions?

Ms McDaniel: OK, Chair. Thank you. My plan is to take members through the key provisions of the Bill as they relate to adoption, if you are content with that.

The Chairperson (Mr Gildernew): Absolutely, Eilís. Go ahead please. Lean ar aghaidh.

Ms McDaniel: This is the first of two briefings on the Bill, which was introduced in the Assembly on 20 September. It represents the first overhaul of adoption legislation in almost 35 years. The Children (Northern Ireland) Order 1995 will also be amended by the Bill. That is the key body of legislation on children's social care, and it is now more than 25 years old.

The Bill has been a long time in development. That is due to a number of factors, the majority of which the Committee is aware of. In developing the Bill, we considered legislative developments relating to the adoption of children in other jurisdictions in the UK *[Inaudible owing to poor sound quality.]*

The Chairperson (Mr Gildernew): Eilís, apologies for interrupting you. The microphones seem to be very sensitive today, and any movement of papers is cutting across you and drowning you out. That was the case with my sound earlier. Be really careful about that. The microphones pick up every noise from the movement of papers. Just be aware and alert to that, Eilís, please. Go ahead again.

Ms McDaniel: I have moved away from the microphone slightly. I hope that helps.

I started by saying that we considered legislative developments relating to the adoption of children in other jurisdictions in the UK. Many of the measures in the Bill are similar to those that have been put in place in England and Wales since 2005 and in Scotland since 2007.

The policy underpinning the Bill has been subject to two consultations. The first was in 2006 and the second in 2017, and there has been extensive stakeholder engagement. Consultees indicated overwhelming support for the Bill in the 2017 consultation. Chair, you have acknowledged that the Bill is substantial. It has 160 clauses and five schedules. It will strengthen the current legislative framework around adoption and care. Today I will provide members with an overview of the key provisions relating to adoption.

The Bill will put the welfare of the child front and centre of adoption decision-making by courts and adoption agencies and will introduce a welfare checklist, which is a list of things that must be considered when deciding whether adoption is in the best interests of the child. Among other things, the list would prompt decision makers to consider the value of a stable and harmonious family to a child, what the child wants and feels and his or her particular needs. Importantly, welfare in connection with adoption means lifelong welfare, because adoption is a lifelong commitment.

In order to tackle any unnecessary drift and delay in the adoption process, the Bill will introduce a statutory principle of no delay in adoption decision-making, and courts would be required to draw up timetables for resolving cases without delay.

The current adoption regional information system, which we refer to as ARIS and which is used to match approved adopters with children waiting to be adopted in and across trusts, would be placed on a statutory footing. Regulations will set out the framework within which it would operate, including the supply, retention and disclosure of information.

The Bill will place a duty on each trust to provide an adoption service that is fit for purpose and meets the needs of everyone connected with adoption in the assessment, placement and support services. It will be possible for trusts to engage voluntary adoption agencies registered with the Regulation and Quality Improvement Authority (RQIA) in the provision of adoption services, drawing on their extensive expertise. An unregistered voluntary organisation may also provide certain adoption services on behalf of the trust, and we will specify those in regulations. The Bill will also enable some adoption functions and services to be undertaken or delivered on a regional basis by, for example, one trust on behalf of the region. That could promote greater efficiency, more equal access to services and consistency of service user experience.

Under the Bill, adoption support that must be provided will include financial support and access to counselling, advice and information relating to adoption. Other support services that must be provided will be specified in regulations.

Any person will be able to request an assessment of needs for adoption support at any time before or after an adoption order has been made. Trusts will be under a duty to undertake such an assessment if requested by a child who is to be adopted, prospective adopters, birth parents, adopted adults, their parents and natural parents. In all other cases, trusts will have the discretion to decide whether to undertake an assessment. Following assessment, if the trust decides that support services should be provided, it will be required to prepare a plan and keep that plan under review.

Trusts will have to continue to provide information about the adoption support services available in their areas so that there is no *[Inaudible owing to poor sound quality]* in adopting and adopters are better informed about adoption support services, their rights and other services.

There are two routes to a child being placed for adoption. The adoption agency can secure a placement order from the court or a birth parent can give consent to placement for adoption. Placement orders are new. They will replace freeing orders. Freeing orders have been widely criticised, partly because, once made, parental responsibility for the child transfers completely from the child's parent to the adoption agency. Placement orders would authorise a trust to place a child with any adopters it selects. Parents may apply to revoke the order but only if the child has not been placed with prospective adopters and only with the leave of the court. Leave would be given only if the parent's circumstances have changed since the order was made.

Unlike with freeing orders, when a placement order is made, the birth parents would keep parental responsibility for their child, although it is shared with the adoption agency until the final adoption order is made. Once the child is placed for adoption, the prospective adopters will also share parental responsibility for the child. Birth parents can also give consent to their child being placed for adoption, and, where that happens, the adoption agency will not need to apply to the court for a placement order. Under the Bill, parental consent will replace parental agreement. Parents may consent to a placement with named or unknown adopters. The Bill also enables birth parents to give advance consent to the final adoption order when consenting to placement or at any time afterwards.

Even though parents may give consent for their child to be placed for adoption, they can, at any time up until the point at which an application for an adoption order has been made, request the return of their child. If an adoption agency remains of the view that adoption continues to be in the child's best interests, it will have to apply to the court for a placement order. Once, however, an application for an adoption order has been made, regardless of whether proceedings have commenced, the court's consent is required for the return of the child. Where a parent has consented to placement for adoption, he or she may oppose the final adoption order in the course of proceedings but only with the leave of the court, and the court may give leave only if there has been a change in circumstances since the parent or parents gave their consent.

The new system is intended to be fairer to birth parents, allowing them to share parental responsibility until the making of the adoption order and to withdraw consent up until the point at which an adoption order is applied for. It will also minimise the risk of a contested court hearing at the adoption order stage and provide greater certainty for children and prospective adopters by dealing, as far as possible, with parental consent before the child has been placed with them. As under current arrangements, a court may dispense with parental consent when making a placement order or an adoption order. Only two grounds for dispensing with consent will apply, however: where the court is satisfied that the parent or guardian cannot be found or is not capable of giving consent or where the welfare of the child requires the consent to be dispensed with.

The Bill also sets out the process for applying for an adoption order other than through an adoption agency, and we refer to that as a "non-agency adoption". It also sets out the conditions for making adoption orders, who is eligible to apply and the effect of adoption orders. In non-agency adoption applications, the child must have lived with the person for three years before an application for adoption may be made. Where the person applying is a step-parent or an authority foster parent, a one-year requirement applies.

The current law on who can apply to adopt has been carried through in the Bill. Applications can be made by single people and by couples, and that includes married couples, civil partners and two people living as partners in an enduring family relationship. Applications can be made by men or women, including those in same-sex relationships. That was addressed by the courts a number of years ago as a result of a judicial review.

Eligibility to apply to adopt and suitability to adopt are different things. Prospective adopters are and will continue to be subject to a rigorous assessment process to ensure that only persons capable of

providing a loving, safe and secure home are approved to adopt. The welfare of the child will always be the overriding consideration. Under the Bill, it will be possible for someone whose application to adopt has been turned down to seek an independent review. The review mechanism will also support our efforts to build confidence in the adoption approval process and will potentially encourage more people to come forward to adopt.

When making a placement order or a final adoption order, the court will be required to consider any contact arrangements that the agency has made or proposes to make. The policy intention is that there should be no presumption either for or against contact, and the welfare of the child will continue to be the paramount consideration of the court. The court will be able to make an order for contact before or during a child's placement for adoption, and a children's court guardian will be appointed to represent the child's interests in such proceedings. When making an adoption order or afterwards, the court will be able to make a further contact order requiring an adoptive parent to allow the child to have contact or to visit or to stay with their birth family or to prohibit contact. That will depend on the best interests of the child.

The Bill also provides for the disclosure of information and access to adoption case records. Adopted adults will continue to be able to obtain a copy of their original birth certificate from the General Register Office (GRO). People adopted before the Bill is enacted, which are referred to as pre-commencement adoptions, will continue to request that directly from the GRO. People adopted after the legislation is commenced, which are referred to as "post-commencement adoptions", will access the information through the adoption agency and not the GRO. Any adopted persons seeking access to their birth record will be advised that a counselling service is available. Those adopted before 18 December 1987, which is the date on which the current adoption legislation came into operation, will have to attend a counselling interview, which is available through an adoption agency, before the Registrar General can provide access to their original birth record. If they live elsewhere in the UK, other bodies, such as a local authority or an adoption support agency, may provide counselling services in those jurisdictions. The existing adoption contact register maintained by the Registrar General will be enhanced so that adopted adults can indicate with whom they do and do not want to have contact. Moreover, birth relatives will be able to indicate whether they want to have contact with the adopted person. Not every adopted adult or birth parent will want contact, and we have to respect that.

Adoption case records held by adoption agencies also contain relevant information that an adopted adult and others may wish to access. For pre-commencement adoptions, there will be no change to how people can access such records. The framework under the Adoption Agencies Regulations (Northern Ireland) 1989 will continue to apply so that adoption agencies retain the discretion to disclose as much information from the records as is reasonably possible, subject to other legislative requirements and considerations such as data protection legislation.

As a result of the ongoing work on historical mother-and-baby institutions, work is under way to develop guidance for adoption agencies on the disclosure of adoption records held by those institutions. The work is being taken forward on a co-design basis. Survivors of the institutions are working alongside social workers to produce the guidance, which will make it clear that, as far as possible, each agency should operate on the premise that all information that is relevant to an adopted adult's birth and adoption should be disclosed to him or her, subject to the impact on other parties being fully considered and the necessary supports being put in place for each adopted adult seeking disclosure.

For post-commencement adoptions, the Bill will enable any person to access adoption case records held by an adoption agency and will set out how that should happen, including a power to specify arrangements and requirements in more detail by way of regulations.

Where the information requested includes protected information — that is, identifying information about another individual — the adoption agency will have to take a number of factors into account when deciding whether to provide the information. It is intended that the independent review mechanism that I referenced earlier will extend to decisions about disclosure of protected adoption information relating to an adult. Individuals will be able to ask for an independent review if they are not content with the decision made about disclosure of such information, including a decision not to disclose.

Intermediary services and counselling services will be made available to support adopted adults and birth relatives wanting to access information or to make contact with anyone related to an adopted

person by blood, marriage or civil partnership. They will also be made available to adoptive relatives who wish to make contact with the adopted person's birth family. That is new in the legislation.

The Bill will strengthen safeguards for children being brought into or out of Northern Ireland through an inter-country adoption. All prospective adopters in Northern Ireland will be subject to the same rigorous preparation, training and assessment, regardless of whether the child whom they seek to adopt lives in the UK or overseas. The Bill introduces a power for the Department to charge fees for the administration of inter-country adoption casework that the Department undertakes. The Department will be able to establish a specific Northern Ireland list of designated countries outside the UK that have sufficiently robust adoption procedures and safeguards to merit adoptions in that country being legally recognised in Northern Ireland. The Department will also be able to place countries on a restricted list in circumstances in which those countries' adoption legislation, practice or procedures are insufficient to ensure the proper protection of children and their families. It is anticipated that all UK jurisdictions will remain closely aligned in their decision-making on designated or restricted lists.

That concludes my overview of the adoption provisions in the Bill. We are happy to take any questions that members may have. I am conscious that there are a considerable number of provisions in the Bill, and we are content to provide any material to the Committee that will actively assist it in its scrutiny. It was suggested that we should invite adoption social workers to brief the Committee, formally or otherwise. Chair, I am certainly happy to organise that, if it is still required.

The Chairperson (Mr Gildernew): OK, Eilís. Thank you for that useful briefing. There is a mass of issues here. I again quickly declare an interest, having worked as a social worker and with looked-after children, adoptive parents, foster parents and the agencies involved in all those considerations.

You mentioned that the Bill, to some degree, follows legislation that has been in place in England and Wales since 2005 and Scotland since 2007. What learning has there been there or what reviews have been done? What issues were highlighted as potential difficulties from which we have been able to learn in order to improve our proposed legislation?

Ms McDaniel: I can refer to some matters specifically, and I will then ask Julie to come in behind me, particularly on adoption provision. For example — this strays into our next session with the Committee — special guardianship orders (SGOs) have been in place in England since 2005. They have not run entirely smoothly there, so we have taken the learning from England and addressed some of what I would describe as the deficits that are present in SGO arrangements there. For example, we will impose a residence requirement for SGOs in Northern Ireland. We will also require applications for special guardianship orders that relate to looked-after children in Northern Ireland to be put before a panel for consideration and a view. Julie, do you want to say anything in particular about adoption provision?

Mrs Stephenson: Yes. With most of the adoption provision, we have maintained quite a consistent approach with England and Wales. That is very much because adoptions need to work across the jurisdictions. The aspects of adoption that we have not taken forward relate more to the scale of Northern Ireland compared with that of England, which operates across so many local authorities. England has done a lot of work on the regionalisation of adoption agencies and on introducing adoption support agencies and adoption support advisers. We considered that we did not need to take forward that same provision for Northern Ireland, given that we work on a much smaller scale across five health and social care trusts.

Ms McDaniel: Chair, there are other examples that relate to support services. For example, the Department is taking powers to require certain support services to be provided. That is new in the Northern Ireland legislation. It does not exist in England and Wales. What we are trying to do there is to make certain that people can get access to the support that they require to meet identified or assessed needs.

There are quite a few examples. We have given you some of them, but if you would like a bit more detail, we can provide it to the Committee.

The Chairperson (Mr Gildernew): OK. Thank you.

Mrs Stephenson: Most of what we took learning from, what differs slightly and what has been adjusted will be more apparent in the Bill's Children Order provisions when we discuss those next week.

The Chairperson (Mr Gildernew): You referred to the "No delay" principle. I fully agree with the overarching theme that the child's interests must be put at the very centre. You also have, however, the interests of birth parents, birth families, adoptive parents, foster parents and all of that. The converse of the "No delay" principle could be seen as undue haste. There have been issues in the past where families involved in such proceedings have felt that they are up against a monolith and that family proceedings can be opaque. What guarantees are built in so that parents will be supported with information and will be able to engage in all of this on the basis of equality of arms? They need to be supported to engage against agencies that may have much greater resources than them.

Ms McDaniel: Again, you are pointing to differences in Northern Ireland that currently exist. It takes much longer in Northern Ireland for a child to be taken right the way through the adoption process, from, for example, their last entry into care until an adoption order is made. The duration difference between us and England is considerable. You are right, Chair: it is important that we give careful consideration to the adoption of a child in the adoption agency and the court itself. Frances, do you want to add anything about the safeguards that are in place?

Ms Nicholson: We have safeguards in all the adoption agencies through their panel. The actual decision that adoption is in a child's best interests has to go through a panel recommendation. That will take into account the birth parents and whether there are any alternative families in the family or any alternative placements. We have those already in the agencies, but we will also have them in the court process, where the decision will be examined again. In addition, through Next Step, we provide independent counselling, support and advocacy for birth parents throughout the process, and we encourage them to seek that. We really feel that that protects their interests as they go through the process, which, as you rightly point out, is quite bureaucratic and difficult for birth parents. We are alert to that. We will provide as much support as we can through the Bill in agency and court terms. Birth parents will also be legally represented in court.

The Chairperson (Mr Gildernew): I had noted down a question to ask about support for birth parents. I was pleased that you indicated in your briefing, Eilís, that that will be the case.

There is a concept in social work called "good enough parenting". Not everybody's parenting is what other people would judge to be the way in which they would parent. Taking into account the close bond and that very important birth bond, will sufficient support be put in place to support birth parents to be parents in a way that puts the child's interests at heart, rather than moving to a presumption of adoption and then supporting the families through the adoption process?

Ms McDaniel: There are two things that I will say in response to that. One of the things that we are conscious of now is providing as much support to parents as we can to enable them to look after their children. That is one of the commitments made in the Delivering Together strategy. In recent years we have introduced what we call "concurrent care". Through concurrent care, there is the potential for a child to be placed with a prospective adopter and be returned to their parent. That is a fairly recent development. We established a pilot scheme that ran from 2014 to 2018, and that has now been mainstreamed. Through working with parents as part of the concurrent care process, it creates the potential for some children to return to their parents. Some of them do. They are small in number and a small percentage, but, through concurrent care, some children remain with their birth parents and are not adopted.

The Chairperson (Mr Gildernew): Thank you. I have a couple more quick questions. You said that parents can appeal only if the child has not been placed with the adopters, and you went on to say that, before adoption, the child must be with the adoptive parents for three years. At what point does the right to appeal disappear? Is it when the child is first placed, pre-adoption, or only after the adoption has occurred?

Ms McDaniel: Frances, can you take that question from the Chair, please?

Ms Nicholson: The need for the child to be resident with the adopters is for non-agency placements. That three-year requirement comes into being when an adoption agency is not involved in the placement. Adoption agencies, or the trusts, are required to provide a report to the court on the circumstances and on whether adoption is still in the child's best interests. That three-year requirement is not for placement adoptions. We work openly with birth parents, and it is hoped that, through the Bill, that working relationship will be much more up front and supportive throughout the whole process. That is why I have referred already to independent counselling and support being available and the hope that birth parents will take that up. The move to their being able to withdraw

their consent will happen only if there has been a change to their circumstances after the placement with the prospective adoptive parents. There therefore has to be an indication that there has been a change to their circumstances once the adoption application has been made: in other words, once the adoptive parents apply to court for the adoption order. I hope that that is clear, Chair.

The Chairperson (Mr Gildernew): It partly clarifies that point, and thank you for that.

I have one last question before I throw the meeting open to questions from members. You mentioned in your briefing that the legislation will provide the ability to apply an inter-country adoption fee. Regrettably, Eilís, in your presentation, we did not hear a thing about what the situation is with adoption in the Twenty-six Counties. My concern for that arises, particularly but not solely, from the issue of kinship care, where we have families living on either side of the border, and there may be a good option available there that is in the child's interests. Will you tell me how the legislation will interact and, more importantly, cooperate with the situation in the Twenty-six Counties? Will you also provide the Committee with a written briefing on the situation in the Twenty-six Counties? With this type of legislation, the Committee needs to understand how it interacts across the island of Ireland, particularly in border communities, where married people live on either side of the border. Can you give me an indication, please?

Ms McDaniel: I am certainly happy to provide you with a written briefing. I will rely on Frances to come in behind me. An adoption that takes place between Northern Ireland and Southern Ireland will be classified as an inter-country adoption, and all of the rules under inter-country adoption will apply. I cannot foresee the Department applying charges in the case of a child who is in care and is going to be placed with a family for the purposes of adoption. It is a power to charge. We will also have the discretion not to charge. I cannot foresee any circumstances in which we would apply a charge to an adoption involving a child who is in care moving from Northern Ireland to Southern Ireland for the purpose of adoption. Frances, do you want to add anything to that?

Ms Nicholson: Both jurisdictions have ratified the Hague convention, which provides an umbrella process and reassurances for both countries that their adoption processes are Hague-compliant. That probably makes us more content to work with other Hague countries because we know that everybody has signed up to the Hague convention, so, hopefully, it will be easier. However, it is an inter-country adoption process; we accept that.

The Chairperson (Mr Gildernew): I will look into it in more detail. I am not sure that that is an appropriate way to go forward. I do not think that a woman who lives in Aughnacloy, in my constituency, and has a sister in Emyvale would recognise that she would be able to adopt her nephew as a result of the Hague convention rather than as a result of the normal, everyday conventions that exist in our community. That should have been considered. I am not sure that the inter-country regime is appropriate here. I admit that I do not fully understand how much more difficult or inaccessible inter-country adoption is, but it will have a bearing. Whatever we do here has to recognise the reality of the lives of the people on this island.

This is a hugely difficult area, but there are huge opportunities. We all recognise that, ideally, first and foremost, a child should be with their birth parents. If that is not possible, for whatever reason, family members are the next go-to, in the interests of the child. We will have many people in that position across the island, particularly in border communities. That should have received more consideration. It is an issue that I will want to return to because, if we are genuinely operating in the child's interest, we need to operate on reality, not on lofty conventions. We should operate on the basis that children live, go to school, stay with their aunt and uncle and play football etc on the other side of the border. I will come back to that.

We will move on to members' questions.

Mrs Cameron: Thank you Eilís, Julie and Frances for your time. This is a huge Bill, and it is a very important Bill. I apologise, because I probably have too many questions. If it is OK, I will submit some to you in writing, through the Clerk, for a written response. That way, it might be easier to keep track with where we are.

You touched on how long adoption takes. What are the existing processing times in Northern Ireland? I know that they do not compare favourably, but how do they compare with other UK regions?

Ms McDaniel: You need to understand that the majority of children are adopted from care. The average time taken for a child to be adopted is taken from their last entry into care. Out of 127 children who were adopted in 2019-2020, 111 were children who were in the care system. Therefore, the duration of the process is measured from their last entry into care until the adoption order is made. In Northern Ireland, the duration is three years and two months — 37 months — but it is my understanding that it is 23 months in England and 26 months in Wales. There is a considerable difference in duration between Northern Ireland and England.

The Chair has already hinted about the need for the adoption of the child to be given careful consideration through the process of the adoption. A number of years ago, we set a target of three years for adoption to be completed in Northern Ireland, and I said that the average duration is three years and two months, but it is three years and one month. The average duration is in line with the target that we set. That said, there will be different time frames for different children. Some children are harder to place for adoption than others. For example, children from a sibling group will be harder to adopt than an individual child. Unfortunately, it is more difficult for children with disabilities, medical conditions and developmental delays to be adopted. Unfortunately, that is reflected in timescales for adoption.

Mrs Cameron: For clarity, in Northern Ireland is it currently two years and one month?

Ms McDaniel: Sorry. I am causing confusion: it is three years and one month or 37 months. In England it is 23 months, and in Wales it is 26 months. I am using months to make it easier for me to remember.

Mrs Cameron: OK. Is it the same for adopted babies who are less than six weeks old? Are the same timescales in place for very young children?

Ms McDaniel: The reference to six weeks is about consent. It is not possible for a parent to give their consent until the six weeks has expired. That does not mean that a child cannot be placed for adoption in those six weeks. However, consent will be revisited at six weeks, and that is the relevance of six weeks in the adoption process.

Mrs Cameron: OK. It does not change the timescales at all.

Ms McDaniel: No. The process is the process. The child, of whatever age, has to be taken through the process. Obviously, a younger child who enters the process will be adopted at a younger age, and that is the natural consequence. The reference to six weeks has relevance to consent.

Mrs Cameron: OK. Thank you. What clauses contain the main thrust to improve the legal framework and promote more flexibility?

Ms McDaniel: Francis and Julie will come in after me. Given the discussion about duration, the introduction of the "No delay" principle and the requirement on courts to establish a timetable for a case to conclude is important. Likewise, some of the support provision in the Bill is critical. It is important that we support people not only through the process of adoption but subsequent to that adoption. We have to consider that the majority of children who are adopted are now adopted from care, and some of the challenges that those children had earlier in their lives have left a mark. That mark is not obliterated by adoption, so, for me, adoption support is critical. The replacement of freeing orders with placement orders is significant, principally because it enables a parent to maintain parental responsibility for their child until such times as the adoption order is made. They are the standout provisions for me.

Frances or Julie, do you want to add anything to that?

Mrs Stephenson: I think that those are the main ones. The support and the ability to request an assessment of need at any stage throughout the process are key, and we will prescribe the support that should be made available for all categories of people affected by adoption. That will include everyone involved in the process. Placement orders replacing freeing orders and the birth parents retaining their parental responsibility will be key and will, hopefully, lead to fewer contested adoption proceedings.

Ms Nicholson: We have added the welfare checklist. To a large degree, that mirrors the welfare checklist from the Children Order but adds in the lifelong implications of adoption. Making agencies and courts go through that welfare checklist will be beneficial in making the child's needs paramount and looking at why adoption is so important for that child. Hopefully, that will bring clarity in the agency and court processes earlier, and that will, in time, eradicate delay.

Mrs Cameron: That is great. Thank you for that.

I want to ask another question. A number of elements of the Bill are separate from adoption processes and deal with things like educational underachievement among looked-after children and support for care leavers. Why was a decision made to include them in the adoption Bill? Are there not grounds for a stand-alone children's Bill?

Ms McDaniel: I suppose that we took the opportunity presented by the plan to amend adoption legislation to make changes to the Children Order that we considered necessary. It will become evident next week — Julie referred to it — that the provision in the Bill that relates to children and the amendments that are made to the Children Order are substantial. They may have merited a Bill in their own right, and there were occasions when we considered whether it was appropriate to do that, but, to be honest, we took the opportunity presented by the need to overhaul adoption legislation. When we consulted on a range of proposals, we introduced further changes to the Children Order that were drawn to our attention through consultation.

Mrs Cameron: Thanks for that, Eilís. Have issues such as educational underachievement been included in similar legislation in other jurisdictions, or are we doing something different?

Ms McDaniel: I think that we have mirrored some of the provision in the Children Act in England, but provision that relates to educational underachievement is to deal with a problem that is present in Northern Ireland. Children in care significantly underperform in education through no fault of their own, and the gap between them and their peers is significant, so it would have been remiss of us not to include something in the Bill to address educational underachievement among the in-care population. You are right: it mirrors some of the provision in the Children Act.

Mrs Stephenson: Can I come in there?

Mrs Cameron: Go ahead.

Mrs Stephenson: Most of the Children Order amendments were identified following a scoping exercise of the legislation brought forward in England and Wales in the intervening years while we have been working on the Bill. There have been a number of steps at primary legislation. The two amendments on promoting educational achievement and not disrupting education when considering a placement for a child were both included in the Children Act at a later stage. Also, the care leavers provision was added to the legislation in England and Wales. That made us consider whether we should also do that and do so as soon as possible when the opportunity arose with the Bill.

Mrs Cameron: That is useful. Thank you for that, Julie. So, an advantage to being behind the other legislatures is that we are learning from where they have been. Is it the case that Northern Ireland has a worse problem with educational underachievement?

Ms McDaniel: It is a problem across the board. I cannot tell you off the top of my head how we compare with the other jurisdictions, but we can look at that for you and provide you with the information in writing.

Mrs Cameron: That is great. Thank you very much.

Mr Carroll: Thanks for the presentation. Eilís, if I picked you up correctly, you said that there was a consultation on the Bill, I think, a few years ago. Can you detail how many responses there were and provide a breakdown of the engagement from, for example, social workers, people who were looked after etc? If I picked you up correctly, that was one of the main aims of the Bill. I understand that that is now being presented in detail. Was that the case? If so, can you provide a breakdown of the different organisations involved?

Ms McDaniel: OK. I will ask the team behind me. Certainly, there were 71 responses to the consultation from a wide range of groups and individuals. That is in addition to some of the stakeholder arrangements, groups etc that Julie and her team have established as part of the pre-consultation and consultation process. Julie, you are better equipped than I am to provide the detail.

Mrs Stephenson: I do not have to hand the exact breakdown of all the responses and an analysis of that, but we can certainly provide that to you afterwards. We established a stakeholder group that consists of representatives from across the statutory and voluntary adoption agencies and children's services. It is quite a large stakeholder group, and it has been working alongside us for a number of years. It helped us to prepare for the consultation, and, following that, it worked through some of the issues that arose. We expect that the stakeholder group will continue to support and help us as we come to the subordinate legislation in order to implement the Bill.

On the 2017 consultation, we attended a number of events across all of those sectors. We did an event in each of the trust areas, and those were attended mostly by practitioners, social workers etc. Our stakeholder organisations also facilitated events with their members, including foster carers, adoptive parents etc, and we attended those and answered questions. They were really helpful in facilitating that. Finally, we also worked with Voice of Young People in Care (VOYPIC) and Barnardo's, which facilitated events with children and young people. We have the children and young persons' version, and VOYPIC prepared a response on behalf of its young people, reflecting the views that it had gathered. We can give you an exact breakdown of that following the meeting.

Mr Carroll: Thanks. That would be useful. If we can get a breakdown of the stakeholder group and what organisations are on it, that would also be useful. I have two more quick questions. I presume that there is consensus on what is being suggested in the Bill. If there is not, what areas are controversial or contentious or are being queried? In layperson's terms, will you give us a sense of how the Bill will increase the number of people who are able to adopt?

Ms McDaniel: In response to the question about consensus, it is fair to say that there was overwhelming support for what was contained in the Bill that we consulted on back in 2017. We have had some opposition to a number of issues. The first is less about opposition and more about the decision of the Department subsequent to consultation, and that relates to the establishment on a statutory basis of the Children and Young People's Strategic Partnership. We consulted on that proposal. Those who responded were supportive of it for a number of reasons, which we could provide to Committee in a bit more detail probably in writing. We have not included provisions in the Bill for the partnership.

Other issues that are slightly contentious are around support provision and the requirement to assess but not a requirement to provide. That has created some issues for those who have responded to the consultation. Julie, do you want to add anything to that?

Mrs Stephenson: Yes. We have been liaising with our stakeholders continually, and indications are that, although they are so supportive of the Bill and they really want to see it proceeding, in their view, while they are happy with everything that is in the Bill, there are probably some areas where they would like this to go a bit further. As Eilis said, that would be around adoption support and the duty to provide services assessed as needed. Where they have a power, they would prefer to see that strengthened.

Other aspects were around a Children Order provision around short breaks for disabled children, where we have a power to prescribe other groups that could receive such short breaks without having to be looked after. Indications are that some stakeholders would like to have seen that prescribed. The definition of "harm" has also been raised and the amendment that we are making. They may want that strengthened a bit. They just want us to go that bit further rather than having any major issue with what is in the Bill already.

Mr Carroll: If those concerns from the organisations about the partnership and support provision are written down, can we get a copy of those?

Mrs Stephenson: We can provide you with an overview, but those were raised in conversations with our stakeholders as they prepared to provide their written evidence to you. They have simply discussed those with us. I do not know whether they have decided that they want to request those or suggest those in their written evidence to you.

Mr Carroll: Finally, are the concerns from one or two organisations or from multiple organisations?

Ms McDaniel: The report on the consultation could be provided to you, it might help you. It would draw your attention to some issues in the report that indicate that, as Julie said, individuals might want us to have gone slightly further than we have gone. If that would be helpful, we can do that for you.

Mr Carroll: Thank you.

Ms Ní Chuilín: Thank you, panel. As you have said, it is a massive Bill. Pam asked a lot of questions and, as she said, we may want to come back with further questions in writing. I appreciate that this session is only on Part 1.

I would like to see the consultation report. First, what are the definitions of harm? What criteria are used for that? Secondly, health and social services are under enormous pressure, and that will continue given our funding envelope. How many adoption agencies are there?

Ms McDaniel: There are different kinds of adoption agencies. There are statutory adoption agencies, which are, essentially, our five trusts, Carál. There are also voluntary adoption agencies, and I understand that there are now three of those in Northern Ireland.

Ms Nicholson: That is correct, Eilís.

Ms McDaniel: Frances, do you want to name the agencies for Carál?

Ms Nicholson: They are Family Care Adoption Services; Adoption Routes, which is part of Family Routes; and Barnardo's, which has, in the last couple of months, registered as an adoption agency in Northern Ireland. Those are the three agencies that are registered with the Regulation and Quality Improvement Authority (RQIA).

Ms Ní Chuilín: OK; I appreciate that. We are about to take evidence on mother and baby homes. I assume that Family Care and Family Routes are not based in any churches or religious orders and that they are civil agencies?

Ms Nicholson: They are now, but, historically, those agencies had some roots in church organisations.

Ms Ní Chuilín: Yes, but they are civil agencies now.

Ms Nicholson: They are now.

Ms Ní Chuilín: That is helpful, Frances. I am aware that the five trusts all have adoption and fostering services.

What is the definition of harm? What criteria will any panel use? I assume that the panel members are all statutorily based rather than based in the voluntary sector.

Ms McDaniel: Frances, if you answer the question about panels, I will come back to the question on harm.

Ms Nicholson: We are referring here to the adoption panel. The make-up of the adoption panel is prescribed in the Adoption Agencies Regulations. The panel should be no bigger than 10. The expectation is that there will be some independent people from the adoption community. They may be adoptive parents, an adopted adult or, very occasionally, a birth-family member. There is encouragement for representation on the panel. Obviously, if the Bill goes through, there will be a new set of regulations, and we will consult on the make-up of the panel and add criteria.

The panel always has a chair with extensive experience of adoption work; that is prescribed. The panel will also have a member of the adoption agency's management committee. If the agency is a trust, a trust board member must sit on the panel. If it is a voluntary agency, that person must be a member of its management committee. The panel always has to have legal and medical advice

available as, obviously, there is an interface with medical issues for children and young people being placed for adoption and for adoptive parents.

I expect that that make-up will continue into the next set of regulations because the important aspects of adoption, such as genetic history, will continue. Prospective adoptive parents must know as much as possible. That is part of the issue with delay. You need to have good, updated medical assessments when you approach prospective adoptive parents about children, so that you can tell them as much as possible. We all know that, when children are younger, it is difficult to anticipate how they will develop and, if they have any developmental delay, whether that will continue or, in the long run, even out. We expect those added disciplines to continue to be part of the adoption panels.

Ms Ní Chuilín: Thank you, Frances. Eilís, you were going to come in and talk about the definition of harm.

Ms McDaniel: The Bill makes provision to amend the definition of harm in the Children Order. That is for the purpose of bringing domestic violence into the definition of harm. It means that a child's experiencing or witnessing domestic violence or domestic abuse constitutes harm to the child under the Children Order. It is a reflection of what our child protection services deal with frequently. Domestic violence and domestic abuse are prominent features in families in Northern Ireland unfortunately. We want to ensure that a child who witnesses that is viewed and defined as having suffered harm and, potentially, that the child protection responses or looked-after responses are developed and triggered by that as a form of harm. I hope that I have made sense. We have amended the definition of harm to capture domestic violence and children experiencing it or being witness to it.

Ms Ní Chuilín: OK. I have a final question. Is the criteria used by a panel for agreeing to an adoption, under the current legislation, available? If it is going to be amended, what will it be amended to?

Ms Nicholson: The panel's functions are set out in the Adoption Agencies Regulations. One of the things that the panel does is recommend whether applicants are suitable adopters. Eilís covered suitability and eligibility when describing the functions of the Bill. The panel goes through the agency's assessment on prospective adopters' suitability in great depth, and it will recommend whether or not they are suitable adopters. The circumstances of each child who will be considered for adoption, be that with agreement or non-agreement, are brought before the adoption panel, and the panel recommends whether adoption is in the child's best interest and whether an application should be brought to free that child for adoption. The additional function of the panel is to decide whether a specific child should be placed with a particular adopter or adoptive couple. We call that matching. Those are the key functions of the adoption panel.

The assessment and matching reports are very detailed. They are also individualised, because children have their own needs. We have to make all the recommendations and decisions to ensure that that child's individual needs are best met by a particular adopter or adoptive couple, so the considerations are individualised as well. At times, prospective adopters will know quite a lot about a child before that match is confirmed. If we are trying to place difficult-to-place young children, we need to talk to those adoptive parents, and they need time to think and discuss with medical personnel whether it is the right lifelong match for them. I hope that that helps.

Ms Ní Chuilín: We all appreciate that this is not a one-size-fits-all situation, particularly given some of the circumstances that children have grown up in. A lot of them grow up under the corporate responsibility of the state and have known nothing different. I have absolutely no doubt, even from experiences in my constituency, that the whole process is very detailed and often very long because it has the interests of children at heart.

When we look at legislation and hear mention of guidelines, matching reports and criteria, it is fair and reasonable for us to ask what those are. I certainly do not ask these questions in order to trip people up. However, if there are consistent references without any evidence for those references, we have to scrutinise that. Obviously, given the volume of material and the size of this Bill, we will come back to that. I appreciate that, today, we are dealing just with the principles of Part 1. Thanks again.

The Chairperson (Mr Gildernew): Thank you. I will check with the Clerk and members whether there are any other indications. I do not see any hands raised electronically, but I will give members a second or two.

We have touched on the issue of consultation. Eilís or any of the panel, given the complexity and dynamics of the Bill, what plans are there for further consultation?

Ms McDaniel: I think that Julie has already referred to that. She may not have referred to it as "consultation", but there will be ongoing engagement with stakeholders. That group of stakeholders is wide: it is the trusts, the voluntary agencies and children's rights organisations like the Children's Commissioner. The intention is to continue to engage with all those stakeholders throughout the process of bringing forward the legislation. Subsequent to the Bill, hopefully, being enacted, there will be a process of developing and consulting on a pretty extensive range of regulations to give effect to the Bill. There will be ongoing engagement and future consultation on the regulations.

The Chairperson (Mr Gildernew): I accept that. I heard you say that there will be ongoing engagement with stakeholders, which is appropriate and welcome. However, will there be a public element? There are more people than just the stakeholders. There are people whom this impacts who are not engaged in stakeholder groups. What are the plans for those people? What do you see as appropriate as regards wider consultation at a future date?

Ms McDaniel: No consultation is planned during the Bill's passage, Chair, but any future consultation on regulations will be public. We always consult publicly on regulations.

The Chairperson (Mr Gildernew): OK, thank you. Can you share with the Committee any indication of the cost implications of the Bill?

Ms McDaniel: The overall estimated cost, over the first three years, is around £38 million, which is not an insignificant sum of money. We have developed an outline business case around that. If it would be helpful, Chair, we can give the Committee a breakdown of what that £38 million relates to and a breakdown by the adoption provisions and the children's needs provisions in the Bill.

The Chairperson (Mr Gildernew): That would be greatly helpful, Eilís. You indicated that you will send a few other pieces of information through to the Committee. I appreciate all that.

I thank all of you very much for your very good presentation. I certainly found it useful. You engaged with questions and provided answers and information. We will be back and forward on the Bill for quite a while and over quite a number of sessions, given the scale and complexity of the issues at hand. I wish you all the best of luck. Thank you for coming to the Committee. Go raibh maith agaibh.

Ms McDaniel: Thank you, Chair.

Ms Nicholson: Thank you.

Mrs Stephenson: Thank you.