



Department of
**Health, Social Services
and Public Safety**

An Roinn

**Sláinte, Seirbhísí Sóisialta
agus Sábháilteachta Poiblí**

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**ADOPTING THE FUTURE
CONSULTATION REPORT**

**SUMMARY AND ANALYSIS OF
RESPONSES**

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1 Introduction

- 1.1 In July 2006, Health Minister, Paul Goggins, issued for consultation a strategy outlining a proposed new approach to adoption in Northern Ireland which seeks to put children's needs at the heart of the process. 'Adopting the Future' was developed in response to significant changes, since the introduction of the Adoption (Northern Ireland) Order 1987, in the number and profile of children needing adoption, and in the wider social and legal developments. It follows a wide-ranging review of adoption in Northern Ireland, informed by stakeholder engagement. Its proposals seek to modernise the legislative and procedural arrangements for adoption to ensure that they are the best they can be, reflecting both current trends in adoption practice as well as modern values as they relate to families, and most importantly the welfare, needs and rights of children
- 1.2 'Adopting the Future' identifies a total of 21 'Key Actions' for changes to improve adoption services in Northern Ireland. The aim of the consultation process was to identify the key issues, stimulate debate on adoption and inform the way forward.

Responses

- 1.3 1,066 consultation responses were received from members of the public, church organisations, statutory and voluntary organisations. 8 petitions and an electronic survey were also received, representing a further 841 signatories. We consider this comparatively large response to a Government consultation to be a reflection of the interest and strength of feeling on the issues raised by the proposed strategy. The Department would wish to acknowledge this and thank respondents for taking the time to give us their views, particularly as the consultation was held over the summer period.
- 1.4 Overall, the strategy was very well received with most of the proposals receiving widespread support. The issue which provoked the largest response and opposition, however, was the proposal at Key Action 8 to extend joint adoption to civil partners and unmarried couples (whether of same sex or different sex living as partners in an enduring family relationship). The other main areas of contention were on ensuring that children's rights are effectively secured, upper age restrictions on the adoption of infants and very young children, conditions on the religion in which an adopted child is to be brought up, how services should be delivered in future and intercountry adoption. This document seeks to reflect the views expressed and address the concerns raised by the consultation. It also sets out the Department's intentions with regard to the future legislative and structural framework for adoption services.

2. The Need for Change

2.1 Chapter 3 of ‘Adopting the Future’ outlines the rationale for the strategy and why change is needed if adoption services are to meet the needs of children and families in the 21st century. It identifies a number of factors, such as:

- the findings of ‘Adopting Best Care’, the Social Services Inspectorate’s inspection of statutory adoption services;
- policy developments in other regions;
- developments in human rights and case law; and
- the problems inherent in the current process, including issues around delay, contact, access to information, eligibility, delivery mechanisms and support.

which highlight areas where adoption legislation and services are no longer functioning as well as they should, to the detriment of the children and families involved.

2.2 We consider that the success of any future adoption policy will be dependant on proper consideration being given to all of the relevant influencing factors. The response document therefore asked:

Do you consider that Chapter 3 identifies all of the current drivers for change in domestic adoption?

Response	Number of Respondents
Yes	20
No	3
Partially	1
Response Document Not Used/Not Expressly Indicated on Response Document	1
Total	25

2.3 Of the 25 responses to this question, the majority (80%) indicated that “Yes” they did agree but of these many also added further comments. One respondent indicated that Chapter 3 outlines the key drivers “comprehensively” and another considered it to be a “well written and researched chapter”. Some respondents suggested the need for further detail to strengthen particular sections, e.g.:

- the balance of rights in adoption;
- delay;
- the basis for an Independent Review Mechanism;
- contact;
- support;
- the possible amendments to the Children (NI) Order 1995; and

- the implications of the Review of Public Administration.
- 2.4 Two organisations suggested that the strategy could better contextualise adoption in its role as a service for looked after children. One considered that it fails to acknowledge the continuum of services for children, such as the benefits of long term fostering and kinship care. Another suggested that:
- it fails to recognise that many young people enter the care system at much older ages, when adoption would not be an realistic or appropriate care option; and
 - that these are young people who will have already experienced significant difficulties while in the care of their birth relatives and within school and that consequently the issue of outcomes for looked after children is significantly more complex than a lack of permanence within the care system.
- 2.5 One professional body considered that the strategy lacked express recognition of a number of international obligations and the implications of a number of judgements in case law pertaining to rights under the European Convention on Human Rights.
- 2.6 One voluntary organisation was of the view that the document does not explore adequately the potential benefits of involving the voluntary sector in the development of adoption services.
- 2.7 The responses from individuals included one response that considered that the strategy does not sufficiently demonstrate the areas where the Adoption (NI) Order 1987 is out of date. This respondent also suggested that there was scope for further examination of the role of Social Work personnel in adoption.
- 2.8 Two respondents argued that legislative change in Great Britain is not necessarily a valid reason for change in Northern Ireland, arguing that there are many areas where there is a difference and that account needs to be taken of the local situation.
- 2.9 The issue of resources was also identified by one organisation as an issue that required inclusion as a driver for change.

Conclusions

The Department recognises that many of the issues in adoption are very complex. In order to make the main document accessible to a broad audience, we sought to reflect the main issues in Chapter 3. Further detail on the role of adoption within services for looked after children and the importance of rehabilitation with the family being the first ‘permanency’ consideration for the

child, where this is safe and appropriate, has been set out in the appendices. We will, however, include amendments to the Strategy which will:

- Include further context for the adoption of looked after children within the main text;
- Clarify the references to human rights in view of recent case law;
- Provide further detail on the amendments to the Children Order;
- Further examine the role of social work personnel;
- Clarify that whilst we do need to be conscious of developments in other jurisdictions, proposals are driven by the needs of the service in Northern Ireland

3. A New Adoption Service

- 3.1 ‘Adopting the Future’ seeks to demonstrate the Department’s commitment to increasing opportunities for children in need of permanence and to recognising the needs of everyone involved in adoption. We concluded that in order to achieve this, we must build on those aspects of our adoption system that are currently being delivered well, while at the same time introducing the reforms necessary for a truly modern adoption service.
- 3.2 Key Action 1 proposes ‘A New Adoption Service’ for Northern Ireland. We proposed the introduction of new adoption legislation, which places the child at the centre of the process, recognises the needs of those involved in adoption and establishes for children a full range of options for permanent families. We stated our intention to improve planning and decision-making by providing comprehensive standards, guidance and training for agencies to ensure efforts are maximised to achieve the best results for children. We asked:

Do you agree that *Key Action 1 (A New Adoption Service)* will contribute to delivering permanence for looked after children and young people?

Response	Number of Respondents
Yes	24
No	2
Response Document Not Used/Not Expressly Indicated on Response Document	2
Total	28

- 3.3 Of the 28 responses to this question, the majority (86%) indicated that “Yes” they did agree but of these many also added further comments. As might be anticipated, none of our respondents objected to placing children at the centre of the adoption process. The comments received included views from:
- One organisation, which stressed that it is important that all those involved embrace the aim and that legislation is clear enabling the child to be at the centre of the court process.
 - Three respondents, which placed a particular emphasis on the role of the courts in this regard and “the need for Children’s rights to be more prominent in Court’s deliberations”.
 - Several respondents, who stressed the need for a holistic, multi-agency approach to implementing a new adoption service.
 - One organisation, which advised of the need to properly recognise and address the needs of all involved in the process and the necessity for a clear framework to balance those needs to be developed.

- A further organisation, which reflected concerns that the strategy was not clear on how this might be achieved or how children and young people would be involved in decision making processes.

Resources & Support

- 3.4 The need for sufficient and ring-fenced funding to implement change was raised by several respondents. In addition, three respondents stressed that related to this Key Action is a need for appropriate resources to be directed into developing support services.

Permanence Options

- 3.5 With regard to the range of permanence options offered by the strategy, one organisation suggested that “there may be some further merit in re-examining the relevance to Northern Ireland of permanence orders as proposed under the Adoption and Children (Scotland) Bill”. The organisation also sought “an assurance that the new legislation will include an amendment to extend the length of Residence Orders to cover until the age of 18 in Northern Ireland”.
- 3.6 Two other organisations emphasised that adoption is “not a panacea for children in care” and will only be the route to permanence for a small minority of looked after children. These organisations suggested that there is an attendant need to review the other options for children in care, particularly foster care, to assist in the promotion of a ‘permanence ethos’ in the fostering service.

Conclusions

The Department recognises that for the child to be at the centre of the adoption process, it is imperative that this is the focus for every person or agency responsible for making decisions about, or providing services to, that child. We will be mindful of how best to ensure an appropriate balance of the needs of all involved, with the child as the primary focus, in both the development of both legislation and multi-disciplinary training.

The strategy highlights the inefficiencies arising from the existence of so many agencies and proposes the regionalisation of some aspects of the service, including adoption support, as a means to enhance the use of existing resources and ensure that adoption services can be delivered by the most expert staff. Nonetheless, the Department appreciates the need for investment in adoption services, and particularly in the area of adoption support. Resources will be a key consideration for the Department for building capacity in preparation for the implementation of a new framework for adoption.

The lack of stability often noted as a feature of long-term care is an important driver behind the focus on permanence in the strategy. The Department has considered the permanence orders proposed in Scotland but considers that the introduction of a special guardianship order will offer an effective form to permanence for some of the children who might otherwise remain in long-term foster care. We anticipate that the extra support associated with the special guardianship order should make it preferable to a residence order for carers. However, we acknowledge that unless a court is satisfied that the circumstances are exceptional, residence orders currently cease to have effect when the child is 16. The Department will therefore also consider empowering the court to direct in appropriate cases that a residence order (made in favour of a person who is not a parent or guardian of a child) may be extended until the child reaches the age of 18.

The Department also acknowledges the importance of an effective foster care service and has committed significant investment in the service in recent years. We will continue to seek ways to improve the stability of foster care placements for looked after children and young people.

4. Putting Children First

4.1 The Welfare of the Child is Paramount

- 4.1.1 Since the implementation of The Human Rights Act 1998, which incorporates the European Convention on Human Rights into domestic law, there has been increasing awareness of the rights and duties of all those involved in adoption. The Department is committed to further increasing awareness of rights and effective implementation, specifically of children's rights, in both looked after children's and adoption services. This will be reflected in practical steps to facilitate children to effectively participate and make their voices heard in key decisions about their lives. We believe that the welfare of the child must be the paramount consideration for courts and adoption agencies in all decisions relating to adoption, including in deciding whether to dispense with parental consent and in decisions about post- adoption contact.
- 4.1.2 Key Action 2 proposed that new adoption law and guidance should be aligned with the relevant provisions of the Children (NI) Order 1995 to ensure that the welfare of the child is the paramount consideration in all decisions relating to adoption. We also proposed that legislation should also provide a welfare checklist, modelled on section 1 of the Adoption and Children Act 2002, which courts and adoption agencies would be required to apply in all decision-making to secure the child's welfare. We asked:

Do you believe the measures proposed in Key Action 2 (The Welfare of the Child is Paramount) will improve the adoption process?

Response	Number of Respondents
Yes	25
No	1
Response Document Not Used/Not Expressly Indicated on Response Document	4
Total	30

- 4.1.3 As anticipated, the proposal that new adoption legislation should ensure that the child's welfare should be the paramount consideration received widespread welcome. Respondents considered that such a provision will be particularly helpful in resolving current problems in relation to:
- delay in relation to human rights issues;
 - contact;
 - dispensing with consent;

- 4.1.4 One organisation, whilst welcoming the child's welfare being paramount, considered that some of the proposals outlined in the strategy did not reflect this aim. The organisation was concerned that some of the proposals "pertain more to an equality agenda rather than the welfare of a child or young person."
- 4.1.5 Other respondents suggested that the proposals did not go far enough. One individual suggested that legislation should clarify that the paramountcy principle means that the welfare of the child supersedes all other considerations and that permanency might be strengthened by inclusion in adoption and children's legislation as a legal principle.
- 4.1.6 One individual and several organisations suggested that, to ensure that the child really is placed at the centre of the process, the opportunity should be taken to accept the recommendations of the audit of the Adoption Order and explicitly incorporate in legislation the guiding principles and provisions of the UNCRC. One respondent suggested that the UNCRC should be placed on the same legal footing as the ECHR. The paramountcy of the child's welfare and the voice of the child were expressly referenced.
- 4.1.7 The focus on rights was also reflected by one voluntary organisation which recommended that "the term "rights and best interests" should be used throughout the legislation rather than "welfare" in order to be compliant with article 3 of the UNCRC."
- 4.1.8 On the proposed welfare checklist, two organisations indicated that they would have liked to have examined the list in detail. Two other organisations specifically welcomed its introduction and one suggested that a primary consideration within the welfare checklist should be the child's ascertainable wishes and feelings, mindful of age and understanding.

Conclusions

The use of the terms “welfare”, “rights” and “best interests” were considered carefully in the development of the strategy. We consider that the child’s “welfare” should be the paramount consideration in any decision relating to adoption. This will ensure that adoption legislation is aligned with the Children Order and other adoption legislation throughout the UK which is also based on the same paramount consideration. However, in the development of new legislation, the Department will consider how best to ensure that it is also consistent with the principle of permanence, the principles of the UNCRC and international adoption law, without undermining the integrity of the paramountcy principle.

The features of the ‘Welfare Checklist’ as contained in the Adoption & Children Act 2002 are outlined in pg. 3 of Appendix E. The first requirement of the list is that courts must have regard to the child’s ascertainable feelings (considered in light of the child’s age and understanding).

4.2 Tackling Delay

4.2.1 ‘Adopting the Future’ identified delay as one of the key difficulties in adoption today and one which can have extremely damaging consequences for children in urgent need of stability and permanence. The strategy acknowledges that much of the delay in securing permanence for children is the result of important and necessary work with families to ensure the right decisions are made. However, it is widely accepted that some of the delay inherent in adoption today is certainly avoidable. Key Action 3 proposes a number of measures aimed at tackling this unnecessary delay:

- introducing a principle into adoption legislation that delay in decision-making is likely to prejudice the child's welfare (bringing adoption legislation into line with the Children (NI) Order 1995);
- introduce statutory timescales for certain parts of the adoption process;
- legislation to require courts to draw up timetables in adoption proceedings and give directions to ensure that they are adhered to;
- amending the Children Order so that a court may not make a care order until a care plan has been prepared by the HSS Trust and considered by the court. This will place a duty on the Trust to prepare a care plan within a timescale set by the court and to review and modify the plan, if necessary, while the application to the court is pending; and
- legislation to require that statutory agencies appoint persons in a similar capacity to the Independent Reviewing Officers (IROs) provided for by the Adoption & Children Act 2002 to monitor the care plans of looked after children to prevent drift and delay.

4.2.2 We asked:

Do you support the measures outlined in Key Action 3 (Tackling Delay) as a means to improve the adoption process?

Response	Number of Respondents
Yes	21
Yes in principle	1
No	4
Response Document Not Used/Not Expressly Indicated on Response Document	5
Total	31

- 4.2.3 There was general acceptance of the damaging effect that delay and instability can have on children and of the need for measures to address the issue. It was identified that delay, especially in cases where children are approaching age 5 or over, can make children much more difficult to place, suffer irreparable damage emotionally, and lose out on vital opportunities to form lasting attachments. It also highlighted that there is clear clinical evidence from CAMHS teams across Northern Ireland that children placed later for adoption suffer more in terms of long lasting mental health difficulties.
- 4.2.4 Some respondents, however, urged caution and stressed, given the magnitude of adoption, the importance of ensuring that adequate steps are taken to ensure decisions are correct (see also below in relation to statutory timescales).

No Delay Principle, Statutory Timescales and Timetabling

- 4.2.5 Five respondents made reference to the limited effectiveness of the “No Delay” principle in Children Order proceedings. One statutory organisation was of the view that the legislative principle in the Children Order has not prevented the timescale for Care Orders increasing significantly and suggested that more effective approaches are required to ensure delays are minimised.
- 4.2.6 There were mixed views about the proposal for statutory timescales. One organisation considered that they would be helpful “as there are often lengthy delays in Care Orders being made despite the “no delay” principle in the Children Order”. Another cautioned that timescales must be strictly adhered to if drift and delay are to be tackled effectively. Two further organisations suggested that statutory timescales should also be applied to care order proceedings.
- 4.2.7 Two organisations welcomed the introduction of timescales but cautioned the need for appropriate resources to be deployed if courts and agencies are to be able to meet them.
- 4.2.8 A voluntary organisation suggested that timescales should also be reflected in the COAC Best Practice Guidance. Several other organisations, whilst supportive of timescales and timetabling, also expressed concern that the court’s power to set timescales also included a power to set them aside and suggested that there was a need for some mechanism to ensure that the courts adhered to appropriate timescales. One HSS Trust commented that this was the original intention of the Children Order Advisory Committee (COAC) but was concerned that it is very difficult to have a monitoring role if there is not an independent legal person in charge of COAC. The Trust suggested that consideration

should be given to developing regulations and guidance around the role of the Committee.

- 4.2.9 Other respondents conveyed reservations in relation to the potential for statutory timescales and timetabling to inhibit a thorough examination of all of the relevant features of a child's circumstances and therefore to potentially undermine robust, informed decision-making on what is in a child's best interests. Similarly, another organisation expressed concerns in relation to the potential for statutory timescales and timetabling to compromise the human rights of participants, particularly birth parents.

Conclusions

'Adopting the Future' recognises that it is necessary to ensure that adoption is the best option for a child before embarking on this path and that this inevitably takes time. The proposals to tackle delay, however, are aimed at reducing the drift and *unnecessary* delay that prolong instability for children and families when adoption would be in a child's best interests.

In its Sixth Report, the Children Order Advisory Committee (COAC) cautioned that "justice that is too swift can be justice flawed" but recognised that delay "must be tackled not only on a case-to-case basis but also on a more general front, to ensure that a culture of zero tolerance of delay wherever possible grows up within our court system." The Department will continue to engage with COAC to minimise delay in proceedings and, as part of a planned review of COAC, will consider extending its functions to encompass the operation of the new adoption legislation.

Care Plans

- 4.2.11 The proposal to require Trusts to prepare care plans which the court must consider before it makes a care order was generally welcomed, some respondents observing that this is currently the practice anyway. A voluntary organisation identified the benefit to the child of having a clear understanding of the plan for their future and how this may help to allay fears.
- 4.2.12 One organisation stated that it was unclear whether it was proposed that a court would be able to reject a care plan and make an interim care order (as at present) or whether it is simply to consider it.
- 4.2.13 Two organisations cautioned about the need to ensure that this process does not cause unnecessary delay in court. Concerns centred around the potential for courts to attempt to control or modify care plans so causing

delay in making the order . It was suggested that it will be important to ensure that Courts give emphasis to making the decision when the care plan is available, rather than on evidence of the delivery of the plan and that the expertise of lower courts and their lawyers will be imperative in the effective operation of the proposal.

Conclusions

Given that the making of a full care order is a fundamental intervention by the court with respect to child's article 8 (respect to family life) rights, it is a vital step that care plans providing for the future of such children have a basis in primary legislation. Whilst it is unlikely to change the position in relation to the making of interim care orders, case law has helpfully clarified that on the granting of a care order, whether interim or final, the authority assumes parental responsibility for the child and "the court may not assume the mantle of responsibility which by its own order has been laid upon the shoulders of the (...) authority"¹.

However, it is neither necessary nor desirable for the courts to monitor the implementation of care plans. As respondents have noted, this would lead to even greater delays in children's court cases. Adding the courts as another layer for some children would be unnecessarily bureaucratic and cumbersome, as well as discriminating between children subject to a care order and those looked after on a voluntary basis. The function of the Independent Reviewing Officer proposed in this Key Action (see below) has been proposed as a more effective mechanism for this purpose.

¹ Kent County Council v G and Others [2005] UKHL 68

Independent Reviewing Officers

- 4.2.14 12 (39%) of the responses received on “Tackling Delay” referred to the proposals on Independent Reviewing Officers. Of these, two organisations welcomed the proposals as being a positive move for looked after children in improving timescales and safeguarding children’s rights.
- 4.2.15 However, the majority (75%) of those who provided comments on IROs expressed reservations about the proposals. One organisation stated that “the proposal for IROs assumes delay is with care planning and the Trusts and does not tackle court delays”.
- 4.2.16 Some respondents questioned the value added by “yet another person in child’s life” in addition to existing roles of Reviewing Officers. Equally, there was some suggestion that the creation of another role in relation to care planning would cause confusion and potentially detract from existing functions, with ensuing difficulties in terms of accountability. One organisation cited Child Care Managers and suggested that IRO’s would reduce their authority and responsibility, and contradict the aim of the strategy to strengthen the role of social work professionals.
- 4.2.18 Other respondents stressed the need to ensure that the role of the IRO was truly independent and empowered to function effectively. Some questioned whether this could be achieved. Two organisations considered that the experience in England and Wales indicates that the practical effect of IROs has been limited because such officers are employed by the very agencies they are meant to review. One suggested that “if such officers are really to have any “clout”, then they need to be able to operate either at “arm’s length” from their local authorities or from within a completely separate agency.”
- 4.2.19 A further organisation suggested that the guidance associated with IROs in terms how they can be appointed, raises doubts about whether they can or should be independent. It stated that the appointment of IROs in England was in the context of CAFCAS which does not exist in the same form in Northern Ireland and suggested that experience of independent chairing has shown that the role created difficulties.
- 4.2.20 Accepting the need for a mechanism to refer breaches of care plans back to court, several respondents suggested that this role might be more appropriately undertaken by an extension of the role of the Guardian ad Litem (GaL). It was considered that as existing and established officers of the court, Gals were already placed to take on this role and that the ‘care order’ guardian would provide continuity and would have ready access to the Courts should further hearings be necessary.

Conclusions

The Department considers it essential that there is an appropriate system of oversight of Trust implementation of care plans to ensure that the UNCRC and human rights of children are properly protected. The presence of the reviewing officer will ensure that there is an independent safeguard in place for those looked after children whose parents are unable or unwilling to take action if the child's rights are breached by HSS Trust inaction in the implementation of care plans.

The review process needs to be well co-ordinated and implemented properly and consistently through all HSS Trusts. We will issue regulations and guidance, relating to how personnel will carry out their functions, and the status of the people that will need to be appointed. Guidance will clarify the respective roles and responsibilities of the professionals involved.

As outlined above, the responsibility for reviewing children's cases rests with HSS Trusts. The GaL, however, is an agent of the court and cannot be engaged by HSS Trusts. Furthermore, the functions of GaLs and their involvement with children is limited to the duration of court proceedings. The Department does not therefore consider GaLs to be best placed to conduct the independent reviewing role. Nonetheless, we fully recognise that for this role to be effective, it needs to be seen as impartial and independent. We will therefore give further consideration to the 'outsourcing' of this activity to a non-Trust organisation. Legislating for this function will also permit the introduction of a framework that will allow us to set standards and monitor the performance of IRO services. This will ensure that we are able to implement a service of uniformly high quality for all looked after children.

4.3 Ensuring the Child's Voice is Heard

- 4.3.1 The increasing significance and impact of human rights in family law in Northern Ireland is expressly recognised throughout 'Adopting the Future'. Agencies are rightly expected to examine their practice and decision-making for compliance with internationally accepted standards in human rights. Contemporary adoption, however, often engages opposing interests and there has been growing concern about the extent to which the rights and best interests of children may be being compromised in this arena.
- 4.3.2 The strategy concludes that children's interests are better promoted by having a right to a champion, in the form of an advocate, who can help children and young people take an active part in the decision-making process and ensure their views and wishes are heard at all times. This is particularly important if a child wishes to make a complaint. Key Action 4 proposes that an advocacy service should be made available to any child making representation to an HSS Trust under circumstances equivalent to those introduced by the Adoption and Children Act 2002. We asked:

Do you support Key Action 4 (Ensuring the Child's Voice is Heard) as a means to improve the process for looked after children?

Response	Number of Respondents
Yes	20
No	4
Response Document Not Used/Not Expressly Indicated on Response Document	5
Total	32

- 4.3.3 The importance of listening to the views of the child was widely acknowledged in the responses and the proposal was broadly welcomed (69% of respondents expressly supporting the proposal). Respondents referred to recent research by the Northern Ireland Commissioner for Children and Young People on the "State of Children's Rights in Northern Ireland" (2004) which identified the lack of independent advocacy services, particularly services for children in care, "as a pressing concern requiring immediate action". This was considered particularly pressing given the provision for advocacy in the new legislation in England and Wales.
- 4.3.4 One respondent, however, questioned the value of advocacy services for the majority of children adopted from care, given that they enter care and decisions are made when they are very young.

- 4.3.5 Other respondents identified that the provision of advocacy is a specialised field and requires a high level of skill, and that “additional and targeted support” should be provided to younger children and children with particular needs.
- 4.3.6 As with IRO’s, however, several respondents expressed reservations in relation to the potential overlap or confusion with other roles in relation to looked after children, eg. child’s social worker, legal representative, GaL. There were also concerns that the child may experience anxiety and confusion at having too many people involved in their lives. Rather, it was proposed that a greater focus may be appropriate among existing professionals, rather than a new service.
- 4.3.7 Some respondents suggested that the strategy could go further in ensuring that children have an effective voice. One respondent suggested that advocacy should be much more widely available and was concerned that the current proposal to provide an advocacy service is limited to children making representations. It considered that under these conditions, the HSS Trust has the potential to make a judgement on who could access a service and that the service should be open to all children and young people who feel that they require assistance, eg. in relation to care plans and LAC reviews.
- 4.3.8 Other organisations highlighted the issue of separate legal representation in court for children in adoption proceedings, arguing that there was a need for new legislation to provide for this as per specified public law Children Order proceedings.

Conclusions

The Department considers that the provision of advocacy services will further underpin our concern to protect children’s rights under the UNCRC and ECHR. We believe that advocacy will only be used, and is only possible, if children and young people are confident that advocates are acting exclusively on their behalf and have no apparent conflicting interests and pressures. Whilst it is essential that children are able to express their views and be heard, their wishes and feelings may well be at odds with what is in their best interests and it is this which is the primary concern for the other professionals involved in the child’s life. We therefore consider that it is necessary that a separate function, distinct from existing roles and exclusively for this purpose, should be available. This is particularly important where children and young people wish to make representations or complaints and legislation will underpin the availability of advocacy in these circumstances. Funding under the Children and Young People funding package has been provided to the voluntary sector to deliver advocacy services in these and other situations.

As with IRO's, we will ensure that guidance clarifies the respective roles and responsibilities of the professionals involved. We will also monitor the operation of advocacy services to ensure their effective interaction with other services.

The Department also acknowledges the importance of ensuring that the views of parties to proceedings are appropriately put before the court. New legislation will provide for separate representation of children in placement order proceedings. The full detail on representation and party status in proceedings will be set out in secondary legislation such as court rules.

4.4 Placement Orders

- 4.4.1 The effectiveness of adoption agencies in taking applications for an order to “free” a child for adoption is reflected in recent statistics which state that of the contested freeing cases completed in 2004/05, 27 of the 28 resulted in an order being made. This belies, however, the increasing difficulties experienced by agencies in recent years in attempting to secure permanence for children through the freeing framework. ‘Adopting the Future’ outlines how the freeing framework, established in a much different era, struggles to fit the needs of adoption today. The effect of freeing, the extinguishing of parental responsibility², is of such significance that applications rightly come under an intense level of scrutiny, particularly in terms of human rights. In contested cases, conflicting interests with regard to dispensing with parental consent and issues around contact, reflective of contemporary adoption, often result in quite protracted proceedings. This can have quite a negative impact on children in terms of further delay and instability, as well as significant costs to agencies.
- 4.4.2 The strategy questions whether in a modern context freeing in its present guise represents the least necessary intervention in family life at this early stage of the adoption process or the most effective mechanism to secure the long-term interests of children. Key Action 5 proposes that freeing should be replaced with a new pre-adoption order, a ‘placement order’, which retains the successful aspects of freeing but provides a more effective balance between the competing interests in the adoption process, primarily establishing a clearer focus on the child’s welfare as paramount and the rights of the child. We stated that guidance would clearly set out how the issue of shared parental responsibility would be interpreted in the care of the child whilst a placement order is in force. We asked:

Do you support Key Action 5 (Placement Orders) as a means to address current difficulties in relation to freeing?

Response	Number of Respondents
Yes	15
Yes Partly	1
No consensus	1
No	3
Response Document Not Used/Not Expressly Indicated on Response	7

² Defined in Article 6 of the Children (NI) Order 1995 as “all the rights, duties, powers, responsibilities and authority, which by law the parent of a child has in relation to the child and his property”. This includes an entitlement to make all major decisions about a child – name, education, place of residence, medical treatment etc.

Document	
Total	27

- 4.4.3 Given the support for retention of the freeing framework expressed at our stakeholder engagement workshops, we expected this proposal to receive a mixed reaction. However, as outlined in Appendix D of the strategy, a number of cases and judgements delivered since those workshops have had the effect of diminishing agency confidence in decisions on adoption and resulted in further delay for some children.
- 4.4.4 56% of respondents expressly supported this proposal with few outright rejections. As with previous questions, respondents made a number of additional comments.
- 4.4.4 One organisation commented that the rationale for Placement Orders was “well reasoned”. However, another response, referring to a number of UK judgements, stated that in so far as the strategy suggests that every feasible alternative should be rejected for good reason before a more extreme intervention is adopted, it is now incorrect. The organisation considered that the decision should be a proportionate response to a pressing social need and not that it should be the only feasible response. The submission concludes that it would not be correct to say that a change from freeing to placement orders is required by the applications of the Human Rights Act.
- 4.4.5 Two other respondents indicated that the proposals would not address some of the difficulties arising under the freeing framework, eg. delay and the duration of consolidated proceedings. One group suggested that the introduction of the paramountcy principle to the current freeing order provision would better meet the needs of the jurisdiction.
- 4.4.6 An HSS Trust also envisaged particular difficulties with regard to the likely expectations of courts in relation to the identification of prospective adopters. It conveyed concerns about the right to confidentiality of the adoptive family and the risk that both the court and GaL may attempt to undermine the role of the Adoption Panel and Trust Decision Maker. The organisation suggested that if the proposal for placement orders is to proceed, legislation must include provision that prevents courts requesting information on prospective adopters.

Shared Parental Responsibility

- 4.4.7 One of the main reservations expressed by respondents was in relation to birth parents retaining some parental responsibility following a placement order. Several respondents had concerns that adoptive placements would

be less stable under placement orders than under freeing orders; some considering that this would have a negative impact on children, particularly in terms of attachment in very young children.

- 4.4.8 One HSS Trust was also concerned about the impact shared parental responsibility would have upon relations between birth parents and prospective adopters. It commented that the reasons for the introduction of Placement Orders in England and Wales were that some agencies did not use freeing, which is not the case in Northern Ireland. The Trust referred to the fact that because only HSS Trusts in Northern Ireland may apply for freeing orders, the freeing process therefore protects prospective adopters from “direct contest” with birth parents. Whilst it acknowledged that birth parents would need the leave of the court to oppose the making of the final adoption order having demonstrated a significant change in circumstances, the Trust considered that courts would be more likely to grant such leave in the context of human rights, even when significant periods of time have passed
- 4.4.9 The Trust also conveyed an apprehension that retaining the parental responsibility of birth parents on the making of placement orders would mean that they are likely to place carers in conflict with birth parents at the adoption stage. In particular, the Trust was concerned about what might happen if an adoption order was not granted, given that the child will already have been in placement for some time. Even if an adoption order were granted, the Trust considered that this potentially adversarial relationship between birth parents and prospective adopters could have a damaging impact on post adoption contact.
- 4.4.10 The implications for contact were also raised by another organisation which was of the view that where contact is determined by the court as being in the best interests of the child, the court may be reluctant to grant a placement order entitling a Trust to place a child with any hypothetical prospective adoptive parent without being sure that continuing contact will be facilitated. A placement in such circumstances with prospective adopters who were opposed to continuing contact could be seen as presenting the natural parent at the adoption stage with a fait accompli which could be in breach of Convention rights. The response suggested that consideration should be given to the possibility of placing a condition as to contact on a placement order.
- 4.4.11 Several organisations also expressed concerns about the consequence of the retention of parental responsibility by prospective adopters and the ability to challenge the making of an adoption order following changed circumstances, that it could have a potentially damaging impact on recruiting prospective adopters. One group emphasised that the needs of prospective adopters need to be considered alongside those of children

and birth parents. “We will not have a service if we cannot attract them in sufficient numbers. Already small but increasing numbers are opting for inter country adoption.”

4.4.12 In view of these concerns, it is unsurprising that seven respondents stressed the need for clear guidance on the issue of shared parental responsibility.

Dually Approved Placements

4.4.13 The other main issue raised by respondents was in relation to how placement orders would affect placements of children with carers dually approved as both foster carers and prospective adopters. This practice involves children for whom adoption may be being considered at an early stage being placed with carers on a fostering basis, with the potential for the placement to later become an adoptive placement. The advantage of such arrangements is that they provide greater stability for children by minimising the number of placements they experience.

4.4.14 Several respondents stressed that new legislation should still permit the early identification of prospective carers and placements on a dually-approved basis and guidance should be clear about what point agencies may family find for children. Respondents were concerned that if agencies are not able to place until a Placement Order is in place, there will be unnecessary placement change and delay, endangering the placement and possibly making adoption less attractive to prospective adopters.

Other Issues:

- Some respondents considered that the effectiveness of placement orders would depend upon their consistent application across the region and in particular, the consistent operation of the courts and the training provided to the judiciary prior to the legislative changes.
- One organisation suggested that more detail was required and that there needed to be a “mechanism to ensure that the voice of the child is heard in the event of conflicting interests arising between the parents and the carers.”
- Another questioned whether placement orders would have any implications for Northern Ireland as a sending country in intercountry adoption.
- One organisation suggested that the potential for reluctant birth parents to disrupt arrangements needs to be considered and that the child’s status in terms of LAC review processes and visiting needs to be clearly stated when a Placement Order is granted.

Conclusions

The Department recognises that the Human Rights Act does not require freeing to be replaced with a placement order framework. The fact remains, however, that freeing is extremely draconian, requiring the removal of all parental responsibility from the parents and leaving the child with no individual having parental responsibility for him/her. In a recent case, a Judge observed that “it is clearly wrong to sever a child’s links with her birth family unless a replacement family has already been identified or it is clear that one will in fact be found for her”³. Given the needs of the children in adoption today, and despite the admirable efforts of some agencies, unfortunately this is not always possible. For this reason, the Department considers that it is no longer appropriate for parental responsibility to be automatically extinguished prior to the making of an adoption order.

The new provisions will, however, confer parental responsibility to the HSS Trust and also confer parental responsibility on any prospective adopters with whom a child is placed and will enable agencies to determine the extent to which any person exercises parental responsibility in the best interests of the child. For most children, this will be increasingly weighted in favour of the prospective adopters and guidance will provide a clear framework for the basis of these decisions.

We appreciate the challenges and concerns the placement order framework poses for agencies. We acknowledge the difficulties in recruiting suitable prospective adopters and the need to support them throughout the process. Ultimately, however, the purpose of ‘Adopting the Future’ is to create a system that reflects the circumstances of contemporary adoption. Freeing was designed in a different social landscape where children had very different needs and contested adoptions were infrequent. It was developed before the emergence of international standards in relation to children’s rights and we consider that it does not give adequate consideration to those rights. We all face significant challenges in adjusting to the new framework and promoting the reality of modern adoption. The Department does not underestimate the size of the task ahead but is confident that together agencies will continue to find innovative ways to recruit families and to prepare and support them so they have realistic expectations, both of the children who need adoption and the nature of the process.

As outlined at Key Action 9, the Department is also committed to placement stability and will ensure that the new framework will not mitigate against placements with dually-approved carers. We will ensure that regulations,

³ Baroness Hale of Richmond, [2006] UKHL 36

guidance and training are mindful of the concerns raised by respondents and reflect lessons learned from other jurisdictions.

4.5 Contact

- 4.5.1 One of the key developments in adoption in recent years is the emergence of post adoption contact between adoptive families and birth families. This is partially as a result of a radical change in the backgrounds of the children needing adoption. ‘Adopting the Future’ highlights how the children needing adoption today rarely fit the historical profile of babies relinquished by parents who feel unable to care for them. Rather, apart from the children who are the subject of step-parent and intercountry adoption, the majority are slightly older looked after children who often have established links with birth family networks or other siblings in care. The strategy outlines how maintaining contact with birth families may help some children understand their background and identity. However, it also stresses that equally, contact may not be beneficial for all children and that the appropriateness of contact must always be considered in the light of individual circumstances.
- 4.5.2 Key Action 6 proposed the introduction of similar provisions to those in the Adoption and Children Act 2002, which require courts to consider contact in adoption proceedings and provides for a new contact order, specifically for children subject to placement orders. While the legislation will place a duty on the court to consider whether there should be contact - there will not be any presumption that contact should or should not occur. It also proposed that guidance should be issued to all those involved in adoption about the appropriateness of contact and the way in which it should be managed and reviewed. At all times, contact between the birth parent(s), siblings and the child should only take place where it is consistent with the child’s welfare. We asked:

Do you support the measures outlined in *Key Action 6 (Contact)* to reflect the evolving role of contact in adoption?

Response	Number of Respondents
Yes	23
No	1
Response Document Not Used/Not Expressly Indicated on Response Document	5
Total	29

- 4.5.3 A significant majority, 79%, of respondents expressly supported Key Action 6. Some respondents reflected on the benefits for some looked after children of contact with birth family, noting that where it is carefully assessed as being in the best interests of the child, contact can contribute to reassurance and security and feeling of identity for adopted children. One organisation highlighted that it is a matter of particular importance for

children and young people and emphasised that Trusts should actively seek their views on the issue.

- 4.5.4 The concept of ensuring that contact should only take place where it is in the child's best interests was welcomed by many respondents. It was suggested that the issue of contact has clouded discussions as to whether adoption can be secured for children, one response suggesting that "we know in many circumstances that this is not in children's best interests and it appears that contact may be used as a bargaining tool with parents rather than as something that is absolutely in the child's best interests."
- 4.5.5 Respondents also stressed the need for consideration of contact to be made on an individual basis, assessed in light of each child's circumstances and not on the needs or human rights of adults. One organisation suggested that courts should be required to consider how the child would benefit from contact in any decision-making on the matter.
- 4.5.6 The importance of clear guidance, regularly reviewed and updated, to assist in considerations of contact was emphasised by some respondents as important in empowering staff to take appropriate decisions.
- 4.5.7 Three other organisations also identified the need for contact arrangements to be reviewed and updated as the child develops and circumstances change. One response expressed concern that post adoption, Trusts no longer have statutory responsibility for children which leaves them "vulnerable to losing contact with siblings and significant others".
- 4.5.8 The need for training and awareness-raising on contact for all involved in adoption was also stressed by several respondents. Professional training, including of the judiciary, was considered important "to ensure consistency in assessing contact through use of frameworks to measure quality of contact and attachment in individual cases." It was also suggested that training and information to parents and prospective adopters might help allay fears and assist in maintaining arrangements.

Other Issues

- One respondent, who is a birth parent, emphasised the importance of contact for birth families and considered that birth parents should have a right to approach children through an adoption agency. The individual understood that birth parents in England, Scotland, Wales and the Republic of Ireland have the right to approach their adopted child via an adoption agency and considered that this right should be extended to birth

mothers in Northern Ireland. The respondent highlighted that she had important medical information she would like to pass on to her child and wished to inform the child of the death of her biological father. The individual wished to emphasise the devastating effects adoption has had throughout her life and convey her belief that the only humane and respectful way to deal with this would be to allow contact to be considered between birth parents and their adopted children.

- A voluntary organisation stressed the impact on birth siblings and suggested that in assessments of the appropriateness of contact, different birth family members should be considered separately. In particular, siblings often grow up together in care and have significant bonds and relationships that they generally wish to continue.
- Another respondent welcomed proposals in relation to contact but reiterated concerns in respect of the impact of continuing birth parent responsibility in relation to Placement Orders.
- A voluntary organisation suggested that there is a need for new legislation in Northern Ireland to strengthen the rights of the child with regard to contact, in particular by making explicit provision in the articles relevant to contact outlining that a contact order will only be made if it is in the best interests of the child and also providing for the separate legal representation of the child in disputes regarding contact.

Conclusions

The Department appreciates that contact is an extremely sensitive issue and we are in agreement with the views of many respondents on the need for consideration to be given to individual circumstances. Under present arrangements, for instance, birth parents may already lodge information with social services and it is for those authorities to decide whether or how this information should be passed on. The Adoption Contact Register, maintained by the General Register Office, is another way in which adopted adults and their birth relatives to get in touch if that is what they both want.

Whilst we acknowledge the differing contact needs of the many people affected by adoption, decisions in relation to contact must be led by the best interests of the child and the wishes of the adult adoptee. As outlined in the strategy, legislation will not therefore contain any automatic presumption for or against contact.

We will take suggestions on board in relation to the development of legislation, guidance and training.

5 Increasing Opportunities for Children

5.1 Finding the Right Family

- 5.1.1 The need to find permanent families for children is an intrinsic and fundamental element of the process of delivering the best outcomes for children who cannot live with their birth parents. ‘Adopting the Future’ emphasises the need to ensure that a focused effort goes into finding a permanent, new family for looked after children waiting to be adopted. The decision to place a child with a family has enormous, life-long implications for everyone involved. It is therefore essential that such decisions are sufficiently informed and robust and ultimately the best that they can be.
- 5.1.2 On a strategic level, it has also been noted that planning and performance management in adoption need to be better informed by sufficient and reliable information on the adoption service. Key Action 7 of ‘Adopting the Future’ states that we will consider options to find a family for a child through a regional system where it has not been possible to do so locally. The establishment of a database is proposed which would provide agencies with improved information to ensure that children are provided with the best possible choice of adoptive families. The information would ensure that progress, performance monitoring and early identification of resource requirements is based on sound monitoring and demonstrates positive outcomes for children. We asked:

Do you support Key Action 7 (Finding the Right Family) as a means to improve the adoption process?

Response	Number of Responses
Yes	19
Yes in Principle	1
Response Document Not Used/Not Expressly Indicated on Response Document	8
No	2
Total	30

- 5.1.3 Respondents were again very supportive of this proposal. Many respondents considered that a regional system for family finding would be a welcome development in Northern Ireland, particularly in view of the size of the service. Responses highlighted that :
- such a system is long overdue and needs to be updated regularly and used consistently to ensure best possible choice of adoptive families for children in Northern Ireland;

- the proposal would support the Regional Authority in progressing the wider use of valuable resources; and
 - Moving to a regional selection, recruitment and training service for potential adopters is a huge step forward and will ultimately reduce the burden on individual trusts, who can redeploy some manpower in better support after children are placed.
- 5.1.4 Whilst supportive of the principle, other respondents stressed that any such system would need to take account of local circumstances, involving a proportionate amount of funding and maintaining local knowledge. One organisation suggested that the creation of a Regional Authority should be designed to provide a sound basis on which to Commission “consortia” arrangements within and between the 5 new Trusts. It was considered that this would maintain the important local aspects of all services while ensuring that “preciousness” does not restrict the choices available for looked after children.
- 5.1.5 Many of the issues touched upon by respondents were in relation the implications of inter-agency placements. Some respondents raised the question of inter-agency fees and queried how resources and structural arrangements might be managed. It was suggested that there may need to be a system of recompense to enable Trusts to ensure they have the resources required to continue to recruit carers and to provide adoption support services, as required, to adoptive families who reside within its geographical area. One organisation queried whether a strategic role for voluntary adoption agencies had been considered as part of the strategy.
- 5.1.6 Other respondents stressed the need to consider the child’s views in making placements and facilitate choice. The implications for continuity for the child in inter-agency placements were also emphasised in terms of contact, maintaining relationships with significant people and educational arrangements.
- 5.1.7 One group considered that information collection is vital and that there may be a need for protocols in relation to sharing information in such a system. Stressing the need for careful consideration and significant consultation in the design of any database, it was also suggested that there may be scope for wider application of the database to fostering.
- 5.1.8 A number of respondents also commented on the linking process generally. Whilst it considered that a regional database should be of assistance, one organisation added that the linking process will only be enhanced if there is consistent application of the needs for dual approvals, considering that the majority of adoptions involve looked after children. Another considered that any linking process must take into consideration all mitigating factors including a child’s spiritual well being.

5.1.9 In addition, two HSS Trusts considered that there was a need for better intervention at an earlier stage to reduce the level of need experienced by some children and sufficient support once children are placed. One concluded that if the level of harm before and within the care system was not so great, placements are likely to be easier located.

Individual Issues

- One individual commented that: “There is nothing said as to the values, morals and ethics that are subscribed to by the Agency and its staff. This omission is in itself significant. What constitutes the ‘right family’? Sadly it appears that the right family must subscribe to the ideology which is hinted at though not made explicit, throughout the Report.”
- An HSS Board suggested that findings from England on the success of a regional service should be used to ensure we do not replicate processes, which did not prove effective.
- Another respondent stressed that the focus on finding a new family for a child should not prevent the consideration of existing relationships and networks:
- Another highlighted that to effectively ensure that children are provided with the best possible choice of adoptive families, the Department must do more to raise awareness of the need for adoptive parents in Northern Ireland.

Conclusions

As with other measures outlined in ‘Adopting the Future’, the proposal at Key Action 7 is strategic in nature and the Department accepts that much work is needed to ensure that we get the detail of a database right so that it is reflective of the needs of the local situation. We will work with agencies, both statutory and voluntary, to ensure, where possible, that the issues raised are appropriately addressed in the development of the database. The question of resources is intrinsically linked to the future infrastructure of adoption services and will be a key consideration in this process.

Legislation, guidance and training will also look at the issue of linking children with prospective adopters in general, taking on board the views expressed by respondents.

5.2 Eligibility

5.2.1 ‘Adopting the Future’ outlines the current eligibility criteria in adoption and highlights that they do not necessarily reflect contemporary society and may unnecessarily restrict opportunities for children to find permanent, loving families to support them throughout their childhood and into adult life.

- Whilst we believe current criteria in relation to minimum age and residence should remain, we are concerned that other criteria might needlessly restrict placement opportunities for children. The Department recognises that perceptions of “family” have altered radically since the inception of the Adoption (NI) Order 1987. We believe that the current requirement in law that only married couples may jointly apply to adopt may be unnecessarily limiting the opportunities for looked after children to find permanent families. We also believe that people in unmarried couples may be put off adoption because only one partner would be able to have a permanent legal relationship with the child.
- We accept that the current legal requirement in step-parent situations for the birth parent to adopt their own child is an unnecessary and often distressing condition.
- It is acknowledged that Trusts must consider a wide range of factors when determining the suitability of prospective foster and adoptive carers. However, to afford children greater protection in law and to enable agencies to target resources appropriately, we believe it is necessary to introduce further eligibility criteria into law with regard to the criminal backgrounds and age of applicants.

5.2.2 Key Action 8 proposes the introduction of new legislation that will:

- Extend joint adoption to civil partners and unmarried couples (whether of different sex or same sex, living as partners in an enduring family relationship).
- Permit a partner in a step-parent situation to adopt without the birth parent having to adopt their own child.
- Require that all appropriate criminal records checks be conducted on prospective adoptive applicants. In most circumstances, a person will not be regarded as suitable to be an adoptive or foster carer if he has been convicted of or given a caution in respect of certain serious “specified” offences likely to be equivalent to those outlined in the Adoption Agencies Regulations 2005⁴.
- Require that people over 50 (or in the case of a joint application, where both are over 50) should only be eligible for assessment to adopt where:

⁴ See Appendix E of ‘Adopting the Future’.

- they wish to adopt a child aged 3 or over; or
- they wish to adopt a child with whom they have an existing link; or
- they have particular skills to care for a child with specific needs or a sibling group of looked after children.

We asked:

Do you support *Key Action 8 (Eligibility)* as a means to improve opportunities and provide added safeguards for children in adoption?

5.2.3 As anticipated, this proposal attracted the greatest number of responses (1064, plus 8 petitions and an electronic survey). The vast majority of these responses were on the proposal to extend joint adoption to civil partners and unmarried couples. Most of those responses were from individuals in the form of letters, as opposed to the response document. In recognition of the unique response to this issue, it is necessary to diverge slightly from the structure of the rest of this document to address the concerns raised.

Proposal: Joint Adoption by Civil Partners and Unmarried Couples

- 5.2.4 The majority (95%) of the responses were opposed to the proposal to extend joint adoption to civil partners and unmarried couples (whether of different sex or same sex, living as partners in an enduring family relationship). A total of 975 responses were received from individuals and 29 from organisations specifically opposed to the proposals to extend joint adoption to civil partners and unmarried couples. In addition, 8 responses were received in the form of petitions, containing a total of 545 signatories opposed to the proposal.
- 5.2.5 30 individuals and 9 organisations expressed support for the proposal. An electronic survey all of the proposals outlined in Key Action 8 was also submitted, which indicated that 291 people supported them, 2 did not agree, and 3 chose 'Don't Know'.
- 5.2.6 An analysis of the replies under this proposal revealed opposition to the proposal on a number of grounds which are broadly summarised and listed below. Most respondents made more than one of the points in their correspondence.
- 5.2.7 Those in favour of the proposal were in agreement on the following grounds:
- It reflected changes in society (26)
 - Equality (27)

- It increases the potential pool of adopters (27)
- It increases security and protective measures for children(27)
- Gay parents make an extra effort to be positive loving influences in the lives of children (1)
- Right wing morality has no part (1)
- It has a positive impact on children (1)

5.2.8 103 respondents objected to this proposal as it was considered to be “damaging to the traditional family unit”.

The Department considers that perceptions of ‘family’ have altered radically in recent years, certainly since the inception of the Adoption (NI) Order 1987, which is the legislation still used in adoption today. For example, 27% of families with dependent children have a lone mother and 2% have a lone father with. 71% either married or co-habiting⁵. It is also worth re-emphasising that co-habiting persons can already adopt as single persons and that this proposal seeks to ensure greater stability for the children placed in these families by enabling both partners to adopt. We feel that it is important that we take steps to ensure that children have the widest possible access to permanence through adoption, while maintaining the most rigorous standards in terms of suitability.

5.2.9 317 respondents argued that parenting by married couples is proven to provide the best outcomes for children

Whilst it is true that many children thrive in traditional family settings, there is also evidence to show that children in other types of family also grow and develop into balanced, mature adults. Numerous studies show that the qualities that make good fathers, mothers or carers are universal and not related to sexual orientation or gender. The desire to parent and the ability to love and care for a child is not exclusive to married heterosexuals and is shared by unmarried people and gay men and women. Every person who wishes to adopt is subject to a necessarily rigorous assessment and approval process which considers their ability to effectively care for and parent a child into adulthood and beyond. Only those whom adoption agencies consider suitable are able to adopt.

5.2.10 491 respondents stated that there was strong opposition to the proposal as the majority of Northern Ireland men find homosexual practice wrong.

The Department considers that while there is some opposition in Northern Ireland to homosexual practice, the State has a duty to protect the rights of everyone in society irrespective of racial grouping, religious belief, political opinion, marital status, age, gender, sexual orientation, disability and dependency. As mentioned

⁵ Northern Ireland Annual Abstract of Statistics, 2005.

previously, men and women who are unmarried regardless of sexual orientation can currently already legally adopt so the current proposal to enable joint adoption where unmarried people are living in a stable relationship is simply an extension of the existing provision to provide greater stability for the child.

5.2.11 15 respondents said the proposals were undemocratic.

'Adopting the Future' The Department issued the consultation document, 'Adopting the Future', to inform and stimulate debate around adoption in the 21st century. The responses have been analysed and carefully considered before any firm decisions have been reached. Ultimately, decisions will be made in what we consider to be the best interests of children.

5.2.12 721 replies made the point that children need stability and quoted statistics that co-habiting couples are 6.5 times more likely to break up following the birth of a child than a married couple (*Kieran, k, "Childbearing Outside Marriage in Western Europe": population Trends 1999, Office for National Statistics*) and there was a perception that homosexuals have multiple partners.

The Department would emphasise that for any person to become an adoptive parent, they would need to prove not only that they can provide a loving family environment, but that their own relationship is sound and able to cope with the challenges of adoption. Proper assessment is key to ensuring that only suitable people are ultimately able to adopt.

5.2.13 A total of 240 respondents considered that prospective adopters should be required to commit to each other first or questioned how, when unmarried couples can't commit to each other in matrimony, they can commit to an adopted child?

Similarly, the Department would reiterate that for any couple to become adoptive parents, they would need to prove not only that they can provide a loving family environment, but that their own relationship is sound and able to cope with the challenges of adoption.

5.2.14 471 respondents stated that the proposal would deprive the child of a father or mother and a child needs both as role models for balanced development.

Research shows that children thrive in many different types of family structure and in Northern Ireland, there are increasingly more diverse types of families. Ultimately, adoption agencies will only place children with approved adopters where they are content that the placement would be in the child's best interests.

5.2.15 It was considered by 340 respondents that the pool of potential adopters is already wide enough and the focus should be on encouraging married couples to adopt rather than making them compete with same sex and unmarried couples.

The Department considers it essential that we give looked after children every opportunity to achieve permanence as it can have such a positive effect on their educational attainment, personal development and economic wellbeing. The main object of this proposal is to enable children who would otherwise have been placed with unmarried carers, to benefit from having two legal parents. While the proposals will not dramatically increase the pool of potential adopters, it is important that we try to find the best possible family for children outside their birth family and if the best route to permanence for an individual child is with a couple who are not married, the law should not stand in the way of that.

5.2.16 There were 286 responses stating that:

- ***Government should be putting children first.***
- ***Government is using children as political pawns/ promoting political correctness at the expense of children.***
- ***Adoption in the UK has suffered because of political correctness.***

Whilst we have been mindful of our equality obligations in the development of ‘Adopting the Future’, the Department would wish to state unequivocally that the rationale for this proposal is based firmly on what we consider to be the best interests of children and is in no way driven by any ‘political correctness’ agenda. The central thrust of the Department’s efforts to improve adoption processes is to place the child firmly at the centre of everything we do and to always have the welfare of children as our paramount concern. Children will continue to be adopted **only** by those who have been assessed and approved as suitable to adopt.

5.2.17 282 respondents raised the point that most EU countries don’t permit joint adoption by civil partners and unmarried couples.

‘Adopting the Future’ seeks to outline a vision for the future of adoption services to meet the needs of children and families in Northern Ireland. We consider that the current eligibility criteria are not in the best interests of children here as they unnecessarily restrict the opportunities for an adopted children to have two legal parents.

While it is true that adoption by same sex and unmarried couples is not legal in every European country, it is also true that the nature and profile of adoption is quite different in Northern Ireland and the rest of Europe. In some countries, adoption is not currently viewed as an option in child welfare policy and others

have lower proportions of children entering care due to differing social frameworks. ‘Adopting the Future’ outlines the profile of children needing adoption in Northern Ireland’s care population and seeks to promote options for permanence for these children away from their birth families.

It is worth repeating that single people in unmarried relationships (same sex or otherwise) can already adopt in Northern Ireland but that only one partner in the relationship can legally adopt so the change is not as radical as the level of opposition would imply.

5.2.18 357 respondents made reference to a European Court of Human Rights ruling, which they understood to mean that homosexuals have no right to adopt.

The case cited by respondents is the ruling in Fretté vs France (2002), in which the European Court of Human Rights found that France had not violated the Convention by disqualifying the plaintiff – a gay man – from the possibility of adopting a child, solely because of his sexual orientation. In its reasoning the Court mainly argued that Member States should have a wide margin of appreciation with respect to an issue where – as in this case – there is little common ground among the Member states. The majority of the judges found in favour of France, the central argument being that **the Convention was not applicable since there is no right to adopt children under the Convention in the first place**. Therefore, by definition France could not be construed as having violated the Convention.

The Department would echo the views expressed in this judgement that no one has the right to adopt, irrespective of their marital status or sexual orientation, and that it is a matter for individual jurisdictions. The central consideration in adoption must be what is in the best interest of the child. Anyone who applies to adopt will have to go through the same rigorous assessment process before they can be approved as suitable to adopt.

5.2.19 There were 313 responding along the lines that the proposal was “unbiblical”, “unchristian” or “immoral”.

Fears were expressed that children living with or having contact with unmarried parents (same sex or otherwise) would be in moral danger as such arrangements are considered “unbiblical”, “unchristian” or “immoral”. This ignores the fact that a lot of civil partners and unmarried couples may also practice religion and have no difficulty reconciling their relationships with their religious beliefs. The Department considers that to develop a policy based on a purely religious basis would ignore the rights of those with different and those of no religious beliefs in what is an increasingly secular society.

The suitability of applicants to adopt will be determined on the basis of a detailed and rigorous assessment process.

5.2.20 53 respondents said that the proposal was unnatural and children need normality.

The Department cannot consider judgemental statements about people's sexuality. If we did, we would be in breach of the raft of legislation referred to earlier. Children can thrive in many different types of family structures and the most important thing for them is that they are loved and cared for by their carers.

5.2.21 There were 14 respondents that expressed the view that their personal preference would be not to have their child/children placed with an unmarried couple (same-sex or otherwise).

While the wishes of the birth family will certainly be sought and considered in decisions to place children for adoption, the main consideration for adoption agencies is and will continue to be what is in the best interest of the child, taking account of all the circumstances surrounding the adoption and indeed the preferences of the child.

5.2.22 19 respondents considered the proposal presented a greater risk of pedophilia and sexual abuse

Paedophilia is the attraction of an adult to children for sexual gratification and has nothing to do with the sexual orientation of the perpetrator. All of the legitimate scientific evidence supports this assertion. Of the cases studied involving sexual abuse of boys by men, 74% of the abusers were or had been in a heterosexual relationship with the boy's mother or another female relative⁶. The same study looked at 269 cases of sexually abused children and found that only 2 offenders were identified as gay with the greater risk emanating from the heterosexual partner of a relative.

5.2.23 14 respondents suggested that there are very few homosexuals in Northern Ireland so there would not be a lot of point in amending the legislation.

The Department would again reiterate that object of this proposal is primarily to enable children who would otherwise have been placed with unmarried carers, to benefit from having two legal parents. While the proposals will not dramatically increase the pool of potential adopters, it is important that we try to find the best possible family for children outside their birth family and if the best

⁶ Jenny C, Roesler T A and Poyer K L (1994) 'Are children at risk for sexual abuse by homosexuals?', *Pediatrics*, 94(1).

route to permanence for an individual child is with a couple who are not married, the law should not stand in the way of that.

It is difficult to determine the size of the gay community in Northern Ireland. The OFMDFM consultation document on its Sexual Orientation Strategy 2006-09 states that international research to date has suggested that one in ten of the population identifies as lesbian, gay or bi-sexual. The document also refers to research carried out by the Government Actuaries Department (GAD) in Great Britain that a more accurate figure is one in sixteen or 6% of the population. While the numbers wishing to adopt from the gay community are likely to be low, they should not be excluded nonetheless.

5.2.24 31 of the respondents said it is more likely to lead to sexual experimentation, lead to gender confusion, and practice of homosexual behaviour leading to mental health issues etc, and increased sexual awareness.

Since 1980, more than 20 studies conducted and published in the USA, Australia and the UK have addressed the way in which parental sexual orientation impacts on children. One meta-analysis of 18 such studies (Allen and Burrell, 1996) concluded that the results demonstrate no differences on any measures between the heterosexual and homosexual parents regarding parenting styles, emotional adjustment, and sexual orientation of the children. Most research to date shows that children of gay and lesbian parents grow up as successfully as the children of heterosexual parents⁷ and that their sexuality is unlikely to be affected.

In terms of sexuality, it is also worth noting that the majority of gay, lesbian and bisexual people have been raised by heterosexual parents.

⁷ Golombok S, Spencer A and Rutter M (1983) 'Children in lesbian and single-parent households: psychosexual and psychiatric appraisal', *Journal of Child Psychology and Psychiatry*, 24 (4). Patterson CJ (1992) 'Children of gay and lesbian parents', *Child Development*, 63. Patterson CJ (1994) 'Lesbian and gay couples considering parenthood: an agenda for research, service and advocacy', in Kurdek LA (ed.) *Social Services for Gay and Lesbian Couples*, New York: Harrington Park Press. Patterson CJ (1995) 'Lesbian mothers, gay fathers, and their children', in Augelli ARD and Patterson CJ (eds) *Gay, Lesbian and Bisexual Identities over the Lifespan*, Oxford: Oxford University Press. Elovitz ME (1995) 'Adoption by lesbian and gay people: the use and misuse of social science research' in Elovitz ME and Schneider C (eds) *Legal Issues facing the Nontraditional Family*, New York: Practicing Law Institute. Tasker FL and Golombok S (1997) *Growing Up in a Lesbian Family: Effects on child development*, New York: Guilford Press. Chan, R. W. and Raboy B. et al (1998) 'Psychosocial Adjustment among Children Conceived by Donor Insemination by Lesbian and Heterosexual Mothers' *Child Development* 69(2) New Zealand Law Commission (1999) *Adoption: Options for Reform: a discussion paper*. Bronston B (2004) 'Children of same-sex parents fare well in research: early studies find positive outcomes, but more work remains', *New Orleans Times Picayune*, 14 November. BAAF (2004) Assessing Lesbian and Gay Foster carers and Adopters, *Practice Note 44*

5.2.25 22 respondents thought that the child will be bullied and stigmatised.

The Department acknowledges that unfortunately, because of the homophobia that exists in society, some children may experience discrimination and negative comments because they have gay or lesbian parents. Childline (Northern Ireland) receives approximately 34,000 calls a year to their helpline and bullying now accounts for about 1 in 4 calls. The true extent of bullying is difficult to quantify because so much of it goes unreported. Children make fun of other children for all kinds of reasons: for being too short or too tall, too thin, too fat, or for belonging to a different ethnic group or religion. Children can show a remarkable resilience to this, especially if they have a stable, loving home environment and parents who can support them.

In deciding to place a child with any prospective adopter, adoption agencies must always have as their over-riding concern a duty to promote the welfare of the child. All prospective adopters undergo comprehensive preparation and training to address many of the difficulties faced by adoptive children. The ability of the child to cope with the potential risk of bullying or stigmatisation would be a consideration for adoption agencies.

5.2.26 There were 19 respondents who stated that homosexuality is “evil”, “sick”, “perverted” or “abhorrent.

As stated earlier, the Department cannot consider judgemental statements about people's sexuality when formulating policy.

5.2.27 3 respondents claimed that there is a greater incidence of disease (eg. HIV) among homosexuals.

The Department considers that health issues can impact people across society and should not be unique to any one group. Health is an important consideration in the selection process for adoption and medical reports are required before an adoption assessment can be progressed. Anyone with HIV or AIDS or indeed any serious illness would be unlikely to be approved as suitable to adopt a child as their ability to meet the child's needs into adulthood and beyond may well be called into question.

5.2.28 4 respondents said that it encourages sex outside marriage

The Department does not accept that this proposal will encourage sex outside marriage. Married couples will continue to be eligible to adopt and will not be at any disadvantage by virtue of their marital status.

5.2.29 4 respondents raised concerns that social workers who object to implementing the policy because of strongly held religious views

about homosexuality or what constitutes a stable family environment could be ostracised or removed from office. It was suggested that social workers who have conscientious objections to the placing children with homosexual or cohabiting couples should not be forced to do so.

Legislation makes it illegal for public authorities, including staff working on behalf of authorities, to discriminate against anyone on the grounds of sexual orientation.

Conclusions

The Department recognises the depth of feeling about what constitutes a stable and enduring family relationship and we welcome the huge response to the consultation on this issue. It is important that we are aware of the views of everyone directly involved in, or with an interest in, the adoption process before embarking on such a major overhaul of adoption policy. Many opposing points have been raised and it is essential that they are given due weight and consideration. As we have outlined the main areas of objection above, we have attempted to provide clear explanations of the Department's views on these matters.

The Department has carefully considered the arguments for and against this proposal, and all the available evidence. We are aware that material was circulated in some circles, providing advice on how to respond to the consultation. This material stressed that it was not necessary to read the consultation document and the Department is concerned that, without having done so, many respondents may not have fully understood the nature of the reform being proposed. It is clear that most of the objections outlined are concerned with the ability of unmarried heterosexual or homosexual couples to parent a child. We have tried to clarify, however, that people in unmarried couples (same sex or otherwise) can already adopt in Northern Ireland but that only one partner in the relationship can become the legal parent. The other obtains parental responsibility through a less permanent legal order. The change proposed, therefore, is not to enable people in unmarried relationships to adopt where they previously could not. Children can and have been placed with single adopters in unmarried relationships, where agencies have considered that to be in the child's best interests, under the existing legislation. We do not believe that where children would otherwise be placed in these circumstances, the law should deny them two legal parents.

The Department therefore intends to proceed to amend the legislation as proposed. The key features of the policy will be that:

- The welfare of children will be the determining consideration for any agency;

- Assessment will be the major factor in determining the suitability of any applicant; and
- There will continue to be no right for any person to adopt.

Proposal: Permit a partner in a step-parent situation to adopt without the birth parent having to adopt their own child.

5.2.27 There were no objections specific to this proposal and 28 responses which were expressly in favour.

Conclusions

The Department is satisfied that this proposal is widely accepted as beneficial and therefore intends to proceed.

Proposal: Require that all appropriate criminal records checks be conducted on prospective adoptive applicants. In most circumstances, a person will not be regarded as suitable to be an adoptive or foster carer if he has been convicted of or given a caution in respect of certain serious "specified" offences likely to be equivalent to those outlined in the Adoption Agencies Regulations 2005.

5.2.28 There were no objections to this proposal and 10 who specifically supported it. Some had caveats to their support such as:

- 'Soft information' should also be available and considered.
- The need to consider further in relation to step-parent adoptions
- Conflict with fostering policy where someone with a historical criminal record could foster but not adopt.
- Entire history should be considered irrespective of country of origin given the growing number of foreign nationals in Northern Ireland.

Conclusion:

The proposed specified offences will feature in the assessment of both adoptive and foster carers so there should be minimal inconsistency between the two processes. It is anticipated that the proposed offences will preclude a person from being approved as a prospective adopter. Adoption agencies are not required to 'approve' step-parents.

Following the Bichard inquiry report in 2004, the Safeguarding Vulnerable Groups Bill will significantly strengthen the vetting and barring safeguards in place to reduce the risks of harm to children. In addition, police will have the

legal authority to disclose appropriate ‘soft information’ on the commencement of Part V of the Police Act 1997 expected to occur in August next year.

The Department acknowledges the importance of obtaining information on the background of all adoptive applicants and will continue to seek ways of improving access to international information in order to safeguard children.

Proposal: **Require that people over 50 (or in the case of a joint application, where both are over 50) should only be eligible for assessment to adopt where:**

- **they wish to adopt a child aged 3 or over; or**
- **they wish to adopt a child with whom they have an existing link; or**
- **they have particular skills to care for a child with specific needs or a sibling group of looked after children.**

5.2.29 18 respondents referred specifically to this element of Key Action 8.

There were 5 respondents in favour of the proposal and 13 against.

Objections to the proposal on age restrictions were that:

- It should be a decision by social services and not legislated against
- Would prefer consideration of individual circumstances
- Over 50s may have raised their own families and have valuable life experiences unlikely to be matched by adopters who have never parented before.
- The Regional Adoption Policies and Procedures differ from proposal in terms of ages of people eligible for assessment.
- The age limit seems arbitrary and the justification offered is insufficient and could be open to legal challenge (under the Single Equality Bill when passed).
- Life expectancy is increasing and people are leading longer lives, with less ill health.
- The draft wording still provides ambiguity in that it indicates ‘should only be eligible for assessment’. It should be possible to be more definitive in relation to age at the time of an adoption order being granted.
- In Intercountry Adoptions sending countries who may perceive the issue of age differently from Northern Ireland should be considered.
- It amounts to discrimination against the over 50s
- The timescale involved in the adoption process could eliminate prospective adopters who would have crossed the 50 year age limit.

Conclusion:

The Department is concerned that the subjectivity of judgements on the ability of older applicants to retain the necessary health and vigour to care for a child into adulthood and beyond leads to inconsistency of practice and standards across the region - particularly between domestic and intercountry adoption. The Department intends to introduce this measure as we believe that it will remove some of this subjectivity, providing greater protection for children, whilst retaining appropriate exceptions to ensure that opportunities for children to find families will not be compromised.

We would wish to reiterate that this proposal is not a blanket ban on people over 50 adopting – it is a **restriction**, with several qualifications, on the age range of children people over 50 may apply to adopt. We do not consider it sensible for the restriction to apply at the time a prospective adopter applies for an adoption order for precisely the reasons outlined by some respondents, ie. by that stage, applicants will have undergone an extensive preparation and assessment process and have had a child placed.

Neither do we consider it appropriate to enable the restrictions to be waived in relation to applications to countries whose own adoption policies might differ from ours. As outlined in ‘Adopting the Future’, we have international obligations to observe the same standards in intercountry adoption as apply in domestic adoption and it is unacceptable that we would approve an applicant as suitable to adopt a child from a particular country that we would not consider suitable to adopt a similar child in Northern Ireland.

We recognise that life expectancies are increasing and that some older applicants, by virtue of their maturity, experience, or other special qualities, may well be qualified to provide a home for some of the children needing adoption. We have therefore only proposed to restrict the age range of children older applicants may apply to adopt. However, we must never forget that adoption is primarily a service for children. It is not simply a question of the ability of a 50 year old to care for an infant. Adoption has lifelong consequences and it is reasonable to assume that older adopters are less likely than younger adopters to survive a child into adulthood and beyond, to be able to offer the same extended family support networks to the child (grandparents, cousins of comparable age etc.), and to provide supports for the child’s own adulthood.

The Department therefore intends to proceed to introduce the upper restrictions as outlined.

5.3 Placement Stability

- 5.3.1 One of the central messages of ‘Adopting the Future’ is that permanence and stability are absolutely key to securing good outcomes for children. It highlights that placement moves can for example, have a detrimental effect on the ability of children to develop secure attachments to their carers. This can have particular significance for adoption and we are therefore anxious to minimise placement moves for children, particularly in adoption. Some looked after children, especially if they have developed a strong attachment to their foster carers, may want to be adopted by them. Concerns have been expressed that foster carers wishing to adopt have not always been encouraged to do so. It is essential that the adoption process recognises the relationship between foster parents and looked after children.
- 5.3.2 To minimise the harmful effects of placement instability for children in adoption, Key Action 9 proposes that agencies, as standard practice, should seek to encourage prospective adopters to request dual approval as foster carers. It also recommends that where a foster carer wants to adopt the child in their care, and that adoption would be in the best interests of the child, the foster carer’s application to adopt should be viewed positively and processed as a priority – faster than for prospective adoptive parents who are not currently foster carers. We asked:

Do you support *Key Action 9 (Placement Stability)* as a means to improve the permanence for looked after children?

Response	Number of Respondents
Yes	22
Yes and No	1
Response Document Not Used/Not Expressly Indicated on Response Document	3
No	2
Total	28

- 5.3.3 The need to provide greater stability for looked after children was widely acknowledged in responses. 79% of respondents expressly supported the proposals outlined at Key Action 9 as a means to improve permanence for this group.

Dual Approval

- 5.3.4 One of the difficulties Key Action 9 seeks to address is the current variation in the use of dual approval across Northern Ireland, whereby some agencies have a significant proportion of prospective adopters dually approved whilst others struggle to implement the practice. This was reflected to a certain extent in some of the responses. Some were fully supportive in the interests on minimising placement moves.
- 5.3.6 Others, whilst supportive of the principle, reflected reservations in relation to the difficulties some agencies experience in gaining the agreement of prospective adopters to dual approval. A number of statutory agencies stressed that few dually approved carers would be prepared to accept the impermanence, delay, levels of contact and parental responsibility arrangements involved in fostering and that many would be unwilling to accept this outcome given their motivation to adopt. It was suggested that most are only interested if a care order and clear plan for adoption are in place. It was also emphasised that it can already be difficult enough to recruit carers for certain children without adding to it and that the question of placement orders needed to be considered in light of these concerns.
- 5.3.7 Some respondents were concerned about the wording of the proposal, stressing that prospective adopters should not be pressurised but rather should have their options fully explained to them and be able to opt for dual approval if they feel .
- 5.3.8 In addition, some respondents were concerned about how dual-approval would be received by the courts and how it might interact with other placement and consolidated proceedings. Respondents considered that recent judgements are not encouraging in terms of dual approval status and suggested that the judiciary should be consulted and would need to be supportive of the concept.
- 5.3.9 Furthermore, some organisations had concerns that adoptive and foster care roles are quite distinct and their co-existence may blur that distinction and cause confusion and instability. One organisation did not see why being approved as foster carers would minimise disruption or increase stability, except in concurrent planning situations which it considered were always likely to be in a minority, and difficult to recruit for. It stated that research shows that children appreciate the difference in status and prefer adoption in most cases. The organisation concluded that this provision would add nothing except a ‘fudging’ of the status of the family.
- 5.3.10 Conversely, other respondents emphasised the links between adoption and fostering. One voluntary organisation remarked that should dual approval be introduced, it would be a good opportunity to do away with the

distinction between agencies' responsibilities in relation to support for foster carers and adopters. It was also suggested that Trusts will need to give consideration to the link between fostering and adoption panels in this context and that for this reason, adoption and fostering services should remain intrinsically linked, based locally as child care services, rather than, as proposed, adoption services being provided on a regional basis.

5.3.11 Another concern, raised by three respondents, was in relation to how dual approval would be managed by voluntary agencies who cannot approve foster parents. One group queried whether the Department had thought of a way of ensuring the voluntary adoption agencies are not disadvantaged by this proposal.

Conclusions

The Department acknowledges the distinct roles provided by foster carers and adoptive parents. In view of this, we do not envisage that dually-approved adopters will be a foster care resource in the same way as carers who are exclusively dedicated to foster care. Guidance will distinguish between the roles that dually-approved adopters may fulfil.

We appreciate the significant disparity between the expectations of adoptive applicants and the needs of the children in adoption today. Prospective adopters who wish to become lifelong parents are understandably reluctant to commit to a child who may not always be in their care. The dilemma for agencies and prospective adopters is this element of risk. Ultimately, however, there can be no guarantees in relation to any child. We would reiterate that adoption is fundamentally a service for children and if there is a dilemma as to who should bear the risk in pre-adoptive placements, the Department does not accept that it should be the child.

As outlined above, the Department is aware that agencies face an enormous challenge in promoting the reality of modern adoption but we know from experience that some agencies have proven very successful in promoting the practice of dual approval. We will work with agencies to disseminate best practice and support them in realising this transformation.

The Department is conscious that whilst voluntary adoption agencies can 'accommodate children' in pre-adoptive placements, they cannot approve foster carers. However, where voluntary agencies place children for adoption, they will have parental consent and will be able to place directly with adoptive carers rather than having to obtain a court order. Where they have approved carers who wish to be considered for placement by a statutory agency or where they have recruited carers on behalf of a statutory agency, they should also be encouraged to seek approval as a foster carer from the relevant statutory agency.

Adoption by Foster Carers

- 5.3.12 There was also broad support for the proposal which seeks to facilitate adoption by foster carers, where that is in the child's best interests, to maintain attachments and placement stability.
- 5.3.13 Some respondents stressed the need to make certain that the assessment process was no less rigorous and to ensure that such a transition would be in the best interests of the child. It was stressed that it should not seen as an easy option or a short-cut and that only where children have built significant attachments and the placement has a high probability of success should foster carers then be fast tracked as adopters.
- 5.3.14 One organisation, whilst recognising the benefits of the proposal, also made the point that it may not always be possible to prioritise assessments in these circumstances because they take time and there are necessary processes; it is therefore often not possible speed these up because if it were, it would be done in all circumstances.
- 5.3.15 Other respondents considered there may be a resource issue and that the proposal may have a negative impact on children who may in greater need of a permanent placement. It was suggested that in such cases, the child is already in a stable placement and priority and time is being given to making this stable placement permanent, when there are other children who arguably should be a greater priority given that they are not experiencing the stability of foster care.
- 5.3.16 One voluntary organisation expressed reservations that the proposal may disadvantage other prospective adopters awaiting assessment, creating an unequal, "two-tier" system, and should be centred on the best interests of children.
- 5.3.17 Two other respondents also commented on the impact this practice may have on agencies' foster carer resources. It was highlighted that where foster carers are approved as adopters, this will reduce the numbers of available foster carers and make the recruitment of foster carers a greater priority.
- 5.3.18 Another respondent advocated that ongoing specialist support should be provided to the applicants and the child throughout the dual approval process, particularly where a foster carer's application to adopt a child in its care is turned down.
- 5.3.19 Whilst welcoming the importance given to prioritising the applications of foster carers, another voluntary organisation considered that the proposal should go further in that where adoption is the care plan, and the child is in

foster care, the wishes of the foster carers re adopting the child should be sought at the initial stage.

Conclusions

As outlined above, the Department fully recognises that the fostering and adoption tasks are quite distinct and that suitability to perform one is no guarantee of suitability to undertake the other. We absolutely accept that for any person to adopt a child, they must undergo a rigorous assessment of their suitability to adopt and will ensure that there will be no way to by-pass that requirement. Matching of children with prospective adoptive carers will continue to be led exclusively by the best interests of the child and be overseen by the Adoption Panel; the potential loss of an agency foster care resource should never compromise a child's best chance for permanence.

The Department is also anxious to ensure that no child is disadvantaged by these proposals. Through the arrangements for recruitment proposed in the strategy, we expect that recruitment of carers will be enhanced and that there should always be a pool of carers available with whom most children may be placed as soon as adoption is identified as a likely option. It should not be the case that agencies will only then begin to recruit and assess adoptive carers for a particular child. Where Trusts are unable to identify carers in a timely manner to meet the specialist needs of some children, they should always consider drawing on the expertise of the voluntary sector to recruit carers who are capable of meeting the child's specific needs.

5.4 Permanence Outside Adoption

- 5.4.1 One of the difficulties in achieving stability and permanence for children in care is the limited options available to suit the diverse needs and individual circumstances of children. ‘Adopting the Future’ highlights that whilst long-term residential care can be a preferred option for some older children who do not wish to have a family placement, most looked after children need to be cared for in a family situation. Foster care has become the main form of alternative care for children provided by Trusts with approx 62.5% of looked after children in foster care. Where the children are in a long-term, stable foster placement, some foster care families are encouraged to apply for a residence order, where the child is no longer looked after and the carers obtain parental responsibility. Foster care or residence order arrangements are suitable for some children where there is an ongoing relationship with the birth family or where it is clearly not in the child’s interests to sever legal ties with the birth family. Such arrangements may deliver a degree of stability in the long-term but have their shortcomings. In a long-term fostering situation, the child is the subject of at least monthly monitoring and six monthly review by the Trust – some would argue that this adds to the instability experienced by looked after children. Although the child is not considered looked after, a residence order only lasts until the child is 16 years - at which stage the child’s future may be very uncertain indeed.
- 5.4.2 To increase the range of options for permanence, to meet the needs of children where adoption is not appropriate, and to modernise the law so it reflects the religious and cultural diversity of our country today, Key Action 10 proposes that a new legislative option, ‘special guardianship’, is required to provide permanence short of the legal separation involved in adoption. Long-term fostering would, however, continue to be an option for those children in long-term care for whom neither adoption nor special guardianship are appropriate. We asked:

Do you support Key Action 10 (Permanence Outside Adoption) as an effective means to secure permanence for looked after children who cannot return home but for whom adoption is not suitable?

Response	Number of Respondents
Yes	19
Response Document Not Used/Not Expressly Indicated on Response Document	6
No	3
Total	28

- 5.4.3 Respondents were again broadly supportive of Key Action 10 as an option for some children. It was suggested that special guardianship might be an effective way to protect religious and cultural diversity.
- 5.4.4 Whilst supportive, several respondents sought further clarification on the characteristics of special guardianship. One organisation, for instance considered that clarification is required as to whether ‘private fostering arrangements’ will be considered for special guardianship. Several other respondents reflected a lack of clarity between special guardianship orders and residence orders and the circumstances under which one might be more appropriate than the other.
- 5.4.5 However, the most common issue raised by respondents was in relation to the proposed arrangements for the provision of support for special guardians – particularly financial support. It was suggested that special guardians should have the right to an assessment of need for support services and must also have the right to have that need met. Respondents stressed that allowances, therapeutic/emotional support, support with legal costs and support with contact should be available and questioned how they would be resourced. One organisation suggested that the upkeep of a child being cared for away from its family and not in public care is an income maintenance issue and should be taken up by the state at national level. It therefore concluded that everyone granted a special guardianship order should be provided with an unsupported child element to the child tax credit system to cover the costs of maintaining the child.
- 5.4.6 Respondents also asked whether other requirements and entitlements applicable to looked after children, eg. visiting and Leaving and Aftercare Services, would also apply to children subject to special guardianship orders. Several respondents suggested that they should but one organisation queried how Trusts would plan for this.
- 5.4.7 Some respondents expressed concern that special guardianship could be used as an easier option or alternative to adoption, even in cases where adoption is clearly considered to be in a child’s best interests.
- 5.4.8 Others questioned the likelihood of foster carers availing of special guardianship as an option. It was suggested that there has been reluctance on the part of foster carers to initiate proceedings as this may incur disapproval of birth parents. Indeed, some respondents considered that it may be more effective to enhance the existing options for permanence in Northern Ireland, such as providing for the holder of a residence order to exercise a greater degree of parental responsibility or extending residence orders to 18 for care experienced children.

- 5.4.9 One group considered we need to identify how we can improve foster care to provide a greater degree of permanence for the vast majority of looked after children for whom adoption or special guardianship will not be appropriate and suggested that further consideration should be given to the Scottish ‘permanence order’ approach. Another organisation suggested the introduction of a Parental Responsibility Agreement for step parents, thus removing the necessity for an adoption order in many cases.
- 5.4.9 One respondent commented that issues may arise which will require clarification as to the role of the natural parent when such an order has been made and the extent to which a public authority might to intervene to lessen conflict between the holder of such an order and the natural parent. It was also of the view that a Guardian ad Litem should be involved in the process to elicit and represent the views of the child, particularly since it is envisaged that such an order is more appropriate for an older child.
- 5.4.10 On the requirement for local authorities in England and Wales to prepare a report on the suitability of applicants for special guardianship, it was suggested that such reports should have a greater focus on what is the best option for the child and establish the child’s views.

Conclusions

Whilst only adoption offers true legal permanence for children who cannot return to their birth families, the Department considers that special guardianship offers an excellent option for children in this situation but **for whom adoption is not suitable**. Agencies will, however, still be required to promote the best interests of children. Where they consider adoption to be in the best interests of a child, they will be under a duty to progress adoption; settling for lesser forms of permanence under the current framework or any other circumstances is unacceptable. Guardians ad litem will therefore be involved in applications for special guardianship orders involving looked after children, as they are in any legal order which involves the discharge of an order granting parental responsibility to an HSS Trust.

We appreciate that these children and families will often have the same support needs as if they had been adopted or remained looked after so we will include powers under the new legislation to ensure that, in a similar manner to adoption support, social services put in place a range of support services, including financial support, to be available where appropriate for special guardians and care experienced children subject to special guardianship orders.

In addition to the provisions on support there will be a further duty on social services to consider whether to provide leaving and aftercare advice and assistance to former looked-after children subject to special guardianship orders and aged between 16-21.

We intend to consult widely on these issues, in advance of bringing the special guardianship support provisions into force and will include more detail on Special guardianship orders in the final version of the Strategy, reflecting the issues raised here and outlining the significant differences between special guardianship orders and residence orders.

6. Supporting Families

6.1 Adoption Support Services

- 6.1.1 As the background of the children needing adoption has changed over the years, so too has the role and functions of the adoption service, which has had to adapt accordingly. The need for greater levels of support from all involved in adoption, particularly following the making of an adoption order, is now a central feature of adoption today. Although the commitment and effort to make adoption work in a new family is primarily for the new family itself, the need for support for everyone involved in the process does not automatically cease because an adoption order is granted. ‘Adopting the future’ concludes that the role of agencies in supporting families in the adoption process should not end when children and their new families are brought together. We want to ensure that children and their new families will have better support services that acknowledge the needs of adopted children throughout their childhood, those of birth families and new adoptive families and the lifelong implications of adoption for everyone affected by the adoption process.
- 6.1.2 Key Action 11 proposes the introduction in legislation of a requirement that agencies must make arrangements for the provision of a comprehensive range of statutory adoption support services, which will continue to be available after the adoption process has been completed. We asked:

Do you support the plans for adoption support services as outlined at Key Action 11?

Response	Number of Respondents
Yes	24
Response Document Not Used/Not Expressly Indicated on Response Document	6
No	1
Total	31

- 6.1.3 As anticipated, there was widespread acknowledgement of the need to develop adoption support services. 77% of respondents expressly supported the proposals. Respondents also raised a number of issues for consideration.
- 6.1.4 Whilst acknowledging the need for greater support, some respondents considered that the proposals required more detail and further clarification, including areas of responsibility. It was suggested that duties to arrange or provide adoption support services should be placed not only on social

services departments, but also on educational, health and mental health authorities and that the needs of adopted children need to be prioritised within these services as those of looked after children are.

- 6.1.5 Two respondents considered that the proposal does not go far enough and suggested that agencies should be required to conduct an assessment of need for support services, as is the case in England and Wales, and that further, agencies should be required to deliver services to meet assessed needs. It was also advocated that the legislation, informed by a regional assessment of need, should specify the minimum range of services which an adoption agency must provide.
- 6.1.6 The issue raised by the most respondents (11) was in relation to the resources required to provide effective adoption support services, most stressing the need for significant investment as essential to delivering improvements.
- 6.1.7 Several respondents also stressed the need for adoption services to be fully multi-disciplinary to reflect the needs of children and families in adoption today, eg. access to health, education, psychology, psychiatry, speech therapy etc. to address children's problems holistically, particularly as needs may not always be fully realised at the point of adoption. One organisation suggested that a consultancy body should be established regionally to include psychologists, psychiatric services, art therapists and others who could develop detailed knowledge about adoption and be available to adoption social workers and families in adoption.
- 6.1.7 Respondents also indicated that adoption support services lends itself to delivery on a regional basis and provided an opportunity to ensure planning and co-ordination of support services and encourage the setting of quality standards for such services. A number of respondents suggested that support services might be most effectively delivered by organisations independent of statutory services. The role of the voluntary sector was highlighted as a potential avenue for this service as, for example, families may feel less inhibited to ask for post adoption support outside of the statutory agency.
- 6.1.8 Two individual strands within adoption support were highlighted. One organisation raised the question specifically of financial support, stating that the majority of adoptive parents are carrying out a "therapeutic parenting" role, which in many respects is a service to the agencies involved and should be acknowledged as such. It emphasised that there needs to be a consistent approach applied across all trusts, without resort to unnecessary means-testing. Respondents also highlighted the importance of contact, particularly with siblings, and recommended that agencies should offer services to adults and children to facilitate contact.

Other Issues

- One organisation considered, given the backgrounds of children being adopted, there was also a need for more realistic preparation and training to better prepare prospective adopters for the challenges in raising adopted children.
- Whilst recognising the importance of adequate support, one HSS Board added that it needs to be tempered alongside the need for stability and normalisation which in part differentiates adoption from fostering.
- Another respondent was of the view that post adoption services need to be developed to a higher standard, ensuring that all vital information on the birth family is available if ever required, 10, 30 or 50 years later. It was also advocated that parents relinquishing children must also be afforded the best possible support.
- A voluntary organisation emphasised that comprehensive, specifically child-focused adoption support services needed to be accessible to children and young people, including accessible information leaflets for children and young people about their rights and counselling, advice and independent advocacy services. The organisation recommended that the Department should produce, in conjunction with children and young people, a child friendly leaflet on the law relating to adoption and children's rights.
- Another organisation stressed the need to develop support services throughout the care system, highlighting that services should involve a seamless follow on from those provided earlier. It was of the view that services for looked after children are presently inadequate and will take many years to develop.

Conclusions

As with other measures outlined in 'Adopting the Future', the proposal at Key Action 11 is strategic in nature and it is our intention that regulations and guidance will further outline the nature of support services to be provided. It is anticipated that, in addition to counseling, advice and information, the following services will be prescribed as adoption support services:

- financial support, where appropriate;
- services to enable groups of adoptive children, adoptive parents and natural parents or former guardians of an adoptive child to discuss matters relating to adoption;

- assistance, including mediation services, in relation to arrangements for contact between an adoptive child and a natural parent, natural sibling, former guardian or a related person of the adoptive child;
- services in relation to the therapeutic needs of an adoptive child;
- assistance for the purpose of ensuring the continuance of the relationship between an adoptive child and his adoptive parent, including training for adoptive parents for the purpose of meeting any special needs of the child and, subject to the child's therapeutic needs, respite care;
- assistance where disruption of an adoptive placement, or of an adoption arrangement following the making of an adoption order, has occurred or is in danger of occurring.

We intend to consult widely on such detail in subordinate legislation and guidance, in advance of bringing the provisions into force. We also hope to work with agencies, both statutory and voluntary, to ensure that the issues raised are appropriately addressed in their development.

The Department also recognises the need for investment to develop support services and any funding will be ring-fenced to build capacity and enable agencies to deliver first-rate services.

6.2 Consent & Dispensing with Consent

- 6.2.1 As the profile of adopted children has shifted from relinquished babies to older looked after children usually removed from birth families to safeguard their welfare, parents are less likely to consent to their child's adoption. 'Adopting the Future' concludes that the current legislative requirements around parental agreement no longer fit the circumstances of the children and families involved in adoption today. It identifies the following problems:
- the term 'agreement' and the wording of the associated court forms may make it even more difficult for parents and guardians to consent to their child's adoption;
 - the provision which enables parents to consent on condition that the child is brought up within a particular religious persuasion has little meaning in an era when very few parents agree. More importantly, the Strategy questions whether it is consistent with the proposed paramountcy principle;
 - the court may only dispense with the requirement for parental agreement if it is satisfied that one of six grounds specified in legislation has been met. In reality, most agencies argue that consent should be dispensed with because the parent or guardian is "unreasonably withholding" their agreement, which is very difficult to demonstrate. There needs to be a greater focus on the welfare of the child;
 - contested court proceedings can be very lengthy, which can exacerbate instability and delay for children. They also represent a significant drain on agency resources, both financially and professionally;
 - there is a need in some cases for independent mediation in the relationship between some parents and social services.

- 6.2.2 Key Action 12 proposes that:

- new legislation should provide for *consent*, rather than *agreement*, to adoptive placement and adoption;
- in keeping the focus on the welfare of the child, the provision which allows birth parents to consent to adoption on condition that the child is to be brought up in a particular religious persuasion should be removed. The strategy stresses, however, that this does not mean, that the feelings and wishes of birth parents, or indeed the child, on this matter will not be taken into consideration prior to placement;
- we will work with the Court Service to ensure that the forms required for consent reflect the reality that birth parents have taken the decision to consent to adoption in the best interests of the child;

- in supporting parents to make difficult decisions, guidance will be issued to adoption agencies emphasising the need to consider the possibility of independent support and/or mediation for birth parents where they oppose the plan for adoption; and that
- we will legislate so that the grounds for dispensing with parental consent are reduced from six grounds to two. That the court is satisfied that:
 - a) the parent or guardian cannot be found, or is incapable of giving consent, or
 - b) the welfare of the child requires the consent to be dispensed with.

We asked:

Do you support the measures proposed on consent and dispensing with consent at Key Action 12 as a means to improve existing arrangements?

Response	Number of Respondents
Yes	20
Response Document Not Used/Not Expressly Indicated on Response Document	8
No	1
Total	29

6.2.3 Respondents were generally very positive about the proposals in relation to contact. Views on each part of the proposal were as follows:

Consent rather than Agreement

6.2.4 Only two respondents commented on the use of the term ‘consent’ rather than ‘agreement’. One was not sure that a distinction between consent and agreement would make a significant difference to parents who are vehemently opposed to adoption. The other, however, welcomed the focus on the welfare of the child and considered that the welfare of a child should not be in the terms of a contractual-style ‘agreement’.

Conclusions

The Department appreciates that the change in terminology may not be any more acceptable to many parents who oppose their child’s adoption but considers that it is more reflective of the views of those who are minded to give their consent. We therefore intend to proceed with this aspect of the proposal.

Consent with Religious Condition

- 6.2.5 This was the issue which attracted the most comments from respondents (11). The majority of responses on this matter were supportive of the proposal, although some wished to stress that matters of cultural and religious identity and the views of children and birth parents should continue to be considered and promoted throughout the adoption process. Respondents advocated that agencies should try to identify suitable placements where preferences are expressed to meet the child's needs and facilitate future contact. Two organisations noted that this might have particular relevance in view of the age of the child. One suggested that where this proved impossible, the court must be satisfied that there are sound reasons why it was not possible.
- 6.2.6 A prospective adopter also expressed support for the proposal as the individual would be classified as 'no religion' and had been informed that it would therefore be difficult to be placed with a child in NI.
- 6.2.7 While generally supporting the proposals, one organisation considered that the proposal may undermine the requirements of the Children Order to promote a child's religion and culture.
- 6.2.8 A voluntary organisation reflected on the particular character of religion in Northern Ireland and suggested that the views of birth parents should be sought, not only on religion, but also other aspects of the lives of prospective adopters, eg. a preference for a married couple over an unmarried couple or a couple in a civil partnership.
- 6.2.9 Whilst recognising the importance of this approach, another voluntary organisation highlighted the implications of the shortage of placements for some children on the ability of agencies to adhere to birth parents' wishes in placing children. It stressed that the acceptance range of approved applicants will often not match the needs of children awaiting placement for adoption.

Conclusions

The Department would wish to clarify that this proposal is only concerned with the current provision at Article 16(1)(b)(i)(ab) of the 1987 Adoption Order, which enables a parent to consent to adoption either unconditionally or subject only to a condition with respect to the religious persuasion in which the child is to be brought up. Clearly, it is best to try to preserve all aspects of a child's identity and consider **all** of the factors that contribute to that. We do not consider that it is appropriate to elevate any one aspect in legislation above all others, particularly where it may effectively operate as a veto in securing what is in a child's best interests. As outlined in the strategy, it is still the Department's view that if the welfare of the child would be best served by a family of a different

religious background, we would question whether the existing provision is consistent with the proposed paramountcy principle.

We fully recognise, however, the importance of maintaining a child's religious and cultural identity and legislation will maintain agencies' existing duties with regard to views on religious and cultural upbringing in respect of both parents and children. We will expect agencies to continue to recruit prospective adopters from a wide range of backgrounds who are able to meet the religious and cultural needs of the children needing adoption.

Mediation

6.2.10 Eight organisations commented specifically on the proposed measures for the provision of mediation and again there was broad support among respondents. It was suggested that often parents object to the adoption because they wish their child to know they fought to keep them, rather than having a realistic desire to parent that child. It was considered that a mediation service where the parent can be heard, have fears allayed, questions answered, make a positive contribution to the child's future identity, and be reassured regarding the meeting of their child's future developmental needs is to be welcomed.

6.2.11 Respondents also suggested that:

- consideration should be given to face to face meetings between birth parents and adopters/long-term carers where feasible and safe;
- such support should be much more widely available including to those birth parents who agree to the plan for adoption and to all of the other parties to the adoption process.
- advocacy services should also be made available to all children and young people to ensure that the voice of the child is heard in such matters;
- the availability of services should be widely publicised and promoted;
- the service must be independent of adoption agencies and could also be most usefully managed and co-ordinated at a regional level while ensuring that the service is available and delivered locally;
- Guidance for agencies regarding counselling for non-consenting parents would be welcome.
- Government will need to be firm and determined in terms of the guidance and regulation of such a service in order to counteract the forces that drive these situations to early and irretrievable confrontation.

6.2.12 Whilst supportive of the principle, the need for appropriate resources was also echoed by a number of organisations although one suggested that

the saving of the resources expended in a very few contested cases through successful mediation would fund very many more mediations.

Conclusions

The relationship between statutory adoption agencies and non-consenting parents is unique and often very difficult. The Department will ensure that ring-fenced funding is allocated to enable agencies to provide independent mediation where appropriate. The Department considers that the proposals for enhanced adoption support outlined at Key Action 11 will be sufficient to ensure appropriate support is delivered to others affected by adoption.

Grounds for Dispensing with Consent

- 6.2.13 Several organisations expressed support for the proposals to amend the grounds upon which a court may dispense with parental consent. The focus away from the ‘unreasonableness’ of the parent and towards the welfare of the child was particularly welcomed although one organisation suggested that the term “welfare” should be replaced with “rights and best interests.”
- 6.2.14 Another voluntary organisation was concerned that this proposal might have too negative an impact on the rights of birth parents and stressed that adequate legal checks and balances need to be in place. One respondent also emphasised that dispensing with consent must be a last resort.

Other Issues

- 6.2.15 There was some discussion of the need to consider the child’s views in matters of consent. Several respondents stressed that the voice of the child was also an important consideration and advocated that the child’s views and feelings on adoption must be ascertained and given due consideration in light of the child’s age and understanding. One organisation highlighted that in some jurisdictions, there is a legislative requirement that children who have reached a certain age should formally consent to their adoption. It suggested that further consideration should be given by the DHSSPS to introducing a statutory requirement for children, subject to age and understanding to consent to their adoption.
- 6.2.16 Two respondents sought clarification on the proposed arrangements for consent where circumstances have changed. Another emphasised that decisions on consent should happen as early as possible, so to avoid delay for children and be in their best interests.

Conclusions

The Department is anxious to preserve the rights of all parties involved in adoption but consider that the most important consideration for courts should rightly be the welfare of the child and not any alleged failings of the parents. It is anticipated that new legislation will replicate the provisions of the Adoption & Children Act 2002 where consent has been given and circumstances change.

We have fully considered the issue of the child's views in adoption and do not believe that it is desirable for children, of any age, to be required to consent to their adoption. It is our view that this would place too great a burden on the child who may feel that the weight of the decision rests on their shoulders. Even where children understand the significance and consequences of adoption, they may be confused about whether it is in their best interests to be separated permanently from their family even though they may have been subjected to serious neglect or abuse by that family. We do, however, consider that it is essential that children's views are sought and considered. Legislation will therefore, require courts and agencies to have regard to the child's ascertainable wishes and feelings regarding any decision (considered in light of the child's age and understanding).

6.3 Access to Information

- 6.3.1 'Adopting the Future' describes how historically it was thought best for all concerned that an adopted child's break with their birth family should be total. In practice, adopted people often did not know much about their birth family and in some cases, did not even know that they were adopted. The strategy highlights that there is now much greater openness in adoption and that there is a need for clarification as to the type of information an adoptee and others affected by adoption should be entitled to, and what should remain confidential.
- 6.3.2 The strategy concludes that all adults who have been adopted should be able to find out about their family history if and when they wish to do so. Birth families and others closely involved in the child's adoption should also have the opportunity to tell their story. We want to ensure a consistent approach to access to information held in adoption agency records, and that the release of sensitive identifying information about adopted people and birth families only occurs in a proper manner taking account of their views.
- 6.3.3 Given the numbers involved in adoption and the reorganisation of services as outlined in Key Action 16, we are not convinced that legislative provision for the regulation of Adoption Support Agencies (as provided for in England & Wales) is required in Northern Ireland. However, we recognise the need to develop services in this area as part of the package of adoption support services and have outlined measures for more effective partnership working with voluntary support agencies at Key Action 17.
- 6.3.4 Key Action 13 proposes that we will set out in legislation how people may access information held by agencies, the courts and the Registrar General. It also proposes to set out what information:
 - adoption agencies must keep in relation to a person's adoption;
 - adoption agencies must disclose to adopted adults on request;
 - adoption agencies may release to adopted adults, birth parents and others; and
 - courts must release to adopted adults on request.

We asked:

Do you support the measures in *Key Action 13 (Access to Information)* as a means to provide a better and more consistent service for children, young people and families than the existing arrangements?

Response	Number of Respondents
Yes	21
Response Document Not Used/Not Expressly Indicated on Response Document	2
No	1
Total	24

- 6.3.5 This proposal was well received by respondents. A number of organisations welcomed the greater consistency and standardisation of practice the proposal seeks to achieve in how people affected by adoption are able to access information. One respondent commented on the scope for access to information to be developed on a regional level as part of a package of adoption support services.
- 6.3.6 The provision of comprehensive guidance and information was also considered by some respondents to be important in assisting agencies to interpret legislation and apply consistent practice as well as helping service users to understand what they can expect.
- 6.3.7 Several respondents suggested that services and information should also be available to adopted young people. It was highlighted, for instance that within particular faith groups, the age at which children gain adulthood can be lower than 18 and that agencies need to be able to respond to this. One respondent questioned whether there were now grounds to consider lowering the age at which adopted people have a right to information. Another suggested that in compliance with the UNCRC and to promote equality of opportunity, new adoption legislation should recognise the child's right to access information and that specialist child-sensitive, age appropriate and ongoing support services should be put in place for all of those impacted where a child seeks access to information.
- 6.3.8 One organisation also suggested that there was a need to strengthen provisions on the information that is made available to prospective adopters on a child's background.
- 6.3.9 Another queried whether consideration might need to be given to protecting specific information within adoption records, such as reports to

Panel, and suggested that there may need to be special provision in relation to adoption records that pre-date the introduction of new legislation. Similarly, another respondent emphasised the need to ensure effective safeguards to protect the interests of adoptees and adoptive families. In particular, the organisation stressed the importance of empowering the adoptee in the process, particularly on information about adoptees or their life histories and in relation to decisions around contact or reunion.

Conclusions

The Department appreciates that information in relation to adoption is particularly sensitive and that there is a need to exercise caution in disclosing information. It is our intention that legislation and guidance will set out in detail categories of information, what type of information should be disclosed, how, and to whom. There is likely to be a distinction between arrangements in relation to adoptions which occur before and after the commencement of any new legislation. In deciding whether or not to disclose identifying information, agencies will be required to take account of all the circumstances, the adopted person's welfare, any views expressed by the person who would be identified, and any prescribed matters, such as the health and safety of both parties.

Where the information sought identifies an adopted child, the paramount consideration for agencies in deciding whether to disclose information must be the welfare of that child. They will also have a duty to take all reasonable steps to seek the views of the child's parent or guardian first, and where it considers it appropriate to do so, the views of the child. In considering whether it should seek the views of the child, the agency will be required to have regard to his age and understanding.

It is also envisaged that regulations will also require agencies, before placing a child with a prospective adopter, to provide the prospective adopter (on the understanding that its contents are kept confidential) with the 'permanence report' on the child which was shared with the Adoption Panel. The report is likely to include:

- Summary information, written by the agency's medical adviser, of the state of the child's health, his health history and any need for health care which might arise in the future
- Current relationships with birth family, the views of the agency about the child's need for contact and the arrangements the agency proposes to make for allowing any person contact with the child
- An assessment of the child's emotional and behavioural development and any related needs
- A chronology of the child's care since birth.

We intend to consult widely on the detail in subordinate legislation and guidance, in advance of bringing the provisions into force.

6.4 Independent Review Mechanism

- 6.4.1 One of the issues identified in terms of service delivery in ‘Adopting the Future’ is how prospective adopters perceive the adoption process. For example, people may be put off from applying to adopt by their perception of the assessment process as being drawn-out and overly-intrusive, or having arbitrary criteria for approval. This perception may contribute to the shortage of adopters across the country, which means that children wait too long for new families to be found for them. Another issue faced by potential adopters is that there is no formal review mechanism for adoptive applicants who have not been approved by the Trust as suitable to adopt. Until now, any such reviews have had to be arranged on an ad hoc basis. The lack of a statutorily based formal review arrangement could make the process seem unfair and even lacking impartiality or independence.
- 6.4.2 Following concerns from adoptive applicants about the transparency of the assessment and approval process, the Department for Education and Skills in England introduced a Independent Review Mechanism (IRM) by which prospective adopters have the right to apply to an independent body for a review of their case if their adoption agency does not propose to approve them as suitable adoptive parents. Initial engagement here concluded that stakeholders considered that the functions of an IRM should be replicated to some extent in Northern Ireland. However, some thought that given the relatively low volume expected, instead of establishing another independent agency, these functions could be performed either by twinning Adoption Panels, so as to provide a second opinion where necessary, or by relying on voluntary sector Panels.
- 6.4.2 Key Action 14 proposed the introduction in legislation of a review mechanism for assessments, which would consist of a new independent system. Following the recommendation of the adoption panel, prospective adopters would be informed if the agency is minded to reject their application to adopt, and would have the right to a fully independent review of their case. Key Action 18 proposed that the RPA Trust with regional responsibility would be responsible for arranging this service.
- 6.4.3 Unfortunately, the response document issued with hard copies of the strategy omitted a specific question on this proposal. However, this was brought to the Department’s attention at an early stage and the electronic version of the response document, which was available to download from the Departmental website, was amended to include the following question:

Do you support Key Action 14 in relation to independent reviews?

Response	Number of Respondents
No Relevant Question on Document	4
Yes	16
Response Document Not Used/Not Expressly Indicated on Response Document	5
No	1
Total	26

- 6.4.4 Fortunately, most of the people who responded using the response document appeared to have used the revised version and the proposal was broadly welcomed. Some respondents raised questions on:
- who would provide the service;
 - how it would be funded;
 - the issue of remit, ideology and personnel;
 - the make-up of the review panel; and
 - whether there would be a cost.
- 6.4.5 The main debate amongst respondents was in relation to the likely numbers requiring such a facility in Northern Ireland and the implications this might have for the scale of an IRM operation here. One organisation commented that the document provided no indication of the number of challenges in respect of adoption and how these are resolved. Several respondents considered that there may be insufficient numbers to justify this approach and suggested the need to consider alternatives, such as arrangements between Trusts or with a voluntary agency, to avoid the introduction of an unnecessarily elaborate system on the English scale. It was also suggested that the cost of providing this service should not be to the detriment of other parts of the service.
- 6.4.6 One group queried the appropriateness of responsibility for the service resting with one of the RPA Trusts, suggesting that consideration should be given to arrangements for prospective adopters in that Trust area having the right to a full and independent review of their case.
- 6.4.7 Other respondents suggested that an IRM should perhaps perform additional functions to those proposed, specifically in relation to adoptive applicants who may be ruled out by adoption agencies at other stages in the process to improve consistency and demonstrate fairness.
- 6.4.7 Two respondents referred to the potential to learn lessons from the English model, one suggesting that they would prefer to see applicants

using the agency complaints or re-presentation procedure, then have recourse to IRM panel as opposed to a choice between the two.

Conclusions:

The Department fully accepts that it is important that an IRM system is designed for, and reflective of, the needs of the local situation. The IRM was one of the functions the Department considered could be co-ordinated on a regional basis and we do not anticipate that legislation will be prescriptive about how this should be implemented. We will expect the organisation with regional responsibility to work with agencies, both statutory and voluntary, to ensure that the issues raised and any lessons learned in England and Wales are appropriately addressed in the development of the system.

We intend to consult on how the independent review mechanism should work and on the regulations to underpin it. We further intend that the provisions in the primary legislation will be flexible enough to allow us to take account of views and to review the operation of the review mechanism to allow changes to be made, for example to the scope and extent of its function.

6.5 Birth Certificates

- 6.5.1 In developing the strategy, Departmental officials met with officials from the General Registry Office (GRO), which is the body responsible for issuing birth, death and marriage certificates, to discuss the difficulties people experience under the current arrangements. Feedback from GRO personnel handling enquiries about birth certificates identified the following issues specifically about adoption:
- some customers who are adopted and need a copy of their birth certificate for validation purposes etc. consider the heading on that birth certificate, 'Entry into the Adopted Children Register' unnecessarily discloses the fact of their adoption;
 - GRO staff are not trained to deal with people who discover the fact of their adoption on receipt of their birth certificate; and
 - the requirement for a birth parent to adopt their own child in a step-parent adoption often causes great distress to the parent as the child's birth certificate is amended to have 'Entry into the Adopted Children Register' on their child's birth certificate, and cites the birth parent as an adoptive parent.

- 6.5.2 Key Action 15 proposed that the Department would work with the Department of Finance and Personnel officials responsible for the General Registry Office to consider a more appropriate, discreet method of ensuring that adoptions are recorded but not immediately obvious on birth certificates. In addition, in accordance with changes recommended in Key Action 8, it was proposed that birth certificates as a result of step-parent adoptions would also be revised. We asked:

Do you support Key Action 15 in relation to birth certificates?

Response	Number of Respondents
Yes	21
Response Document Not Used/Not Expressly Indicated on Response Document	3
No	0
Total	24

- 6.5.3 This was the least contentious of all of the proposals within the strategy. Few respondents provided additional comments other than to express endorsement. Three organisations particularly welcomed the emphasis on greater discretion.

6.5.4 The following additional comments were also noted:

- One respondent added that accountability and responsibility will need to be clear for protocols of communication.
- Another stated that staff should be properly trained in this area.
- One organisation was unclear as to how birth certificate of step parent adopted child would reflect the different status of both parents.

Conclusions

The Department has noted that respondents were supportive of this proposal and intends to begin engaging with the GRO to progress this Key Action, taking account of the issues raised, in due course.

7 Delivery Mechanisms for the 21st Century

7.1 Infrastructure

- 7.1.1 In light of the relatively small numbers of children involved in adoption in Northern Ireland, there is widespread recognition that the number of statutory adoption agencies in Northern Ireland is unnecessary and inefficient. This situation invariably leads to inconsistency of practice across the region with children and families receiving different standards of service. ‘Adopting the Future’ highlights how statutory agencies have expended resources on individual, piecemeal work, which might, more effectively, have been conducted on a regional basis. Work in relation to publicity, recruiting prospective carers, training social work staff, and post-adoption structures are frequently duplicated across the region.
- 7.1.3 The strategy concludes that the number of statutory agencies is also a barrier to the development of effective relationships with the voluntary sector. Organisations often have to negotiate separate Service Level Agreements with individual agencies, resulting in different services available to families throughout the region and inefficient activity for the organisations.
- 7.1.4 To address the inconsistency and inefficiency in adoption services resulting from multiple statutory agencies competing for limited resources, Key Action 16 proposed that due consideration should be given to statutory adoption services, including adoption support services, being concentrated in one regional centre. A model outlining the relationship between the regional centre and the other RPA Trusts and the potential functions of a regional centre was included at appendix H. The Department anticipated that this measure could facilitate the development and maintenance of expertise and specialists in adoption work across the region. As a result, adoption workers could give children, for whom adoption is the most suitable alternative to family life, the level of commitment they deserve. Equally, the initiative should free non-adoption LAC workers to dedicate more time to the children for whom adoption is not suitable. We asked:

Do you support Key Action 16 (Infrastructure) as a means to provide a better and more consistent service for children and families than the existing structural framework?

Response	Number of Respondents
Yes	15
Yes Provisionally	1
Yes?	1
Don't Know	1

Response Document Not Used/Not Expressly Indicated on Response Document	6
No	3
Total	27

Do you agree with the potentially regional functions as outlined in Appendix H?

Response	Number of Respondents
Yes	13
Yes with reservations/Not all	2
Y?	1
Don't Know	1
Response Document Not Used/Not Expressly Indicated on Response Document	3
No	2
Total	22

- 7.1.5 There was significant variation in views on this issue. Whilst there was widespread recognition of the inconsistencies in adoption practice across the region, respondents were divided on how best this might be addressed. As an overriding consideration, one organisation was primarily concerned that the infrastructure is sufficient to support a consistent, high standard approach across Northern Ireland to guarantee that all rights of the child are paramount in relation to all aspects of the adoption and post adoption strategies.

Regionalisation

- 7.1.6 Some respondents reflected on the possible benefits which might result from greater regionalisation, eg.
- reduced administration and advertising costs;
 - building expertise or creating a centre of excellence where best practice is promoted and maintained
 - ending a post code lottery in respect of service provision; and
 - ensuring that criteria and procedures are followed in a more consistent way.
- 7.1.7 It was noted that the proposal would mean significant changes and require a high degree of collaborative working. Several respondents, however, considered that many of the current problems in terms of service delivery will be addressed under RPA. It was suggested that given Northern Ireland's geographic spread, 5 statutory adoption agencies might better represent a reasonable balance between the need for specialisation and

the need for a local presence. The regional authority would then be in a position to ensure accountability. In light of this, a number of respondents advocated that it would be preferable to assess the performance of adoption services in the wake of these new structures.

- 7.1.8 One respondent, however, whilst recognising that RPA should address some of the inconsistencies, suggested that there was a danger that adoption services might suffer as a relatively small entity within the broader responsibilities of the RPA Trusts.
- 7.1.9 Three organisations stressed how the local dimension is important in the delivery of services, with two highlighting the interface between foster carers and adoption. Related to this, several organisations expressed concern at the potential for regionalised adoption services to become detached from mainstream childcare services and for adoption to lose its focus within those services. Two responses considered that the danger in a single agency or single Trust is that it will move adoption into a specialist position, becoming divorced from the 'supply' of adoptable children. They suggested that the integration of adoption as an option for looked after children requires the development of a distinct culture of adoption as part of the mainstream of children services within an agency, which is difficult to achieve if the central locus of adoption is organisationally outside the agency.
- 7.1.10 One HSS Trust emphasised the importance of the links between adoption and broader children's services in informing the development of adoption services to meet the needs of looked after children. It expressed major concern about the potential, for example, of two different statutory organisations having responsibility for siblings. The response also highlighted the professional skills and expertise which are common across both adoption and care proceedings, the availability of which is important to both arenas.

Conclusions

The difficulties arising from the structural organisation of adoption services were a key consideration in the development of 'Adopting the Future' and accordingly, the strategy could only be finalised in the wake of decisions on the Review of Public Administration. Extensive consideration has been given to whether the existing problems will be resolved, and whether the envisaged enhanced services can be achieved, by a reduced number of HSS Trusts. We remain unconvinced. Adoption is an extremely complex area, both in terms of practice and in terms of the legal framework. It will only ever be suitable for a small number of children and young people and it therefore makes sense that cases should be progressed by a specialist cadre of people who can develop and maintain expertise in both practice and the legal framework. Investing

responsibility for adoption in one Trust will, we believe, establish a centre of excellence for adoption, uniquely placed to drive forward innovation and expertise in making adoption services better for children and families. In addition, as accepted by many respondents, there are simply some aspects of the service for which the most effective and efficient method of management and delivery is on a regional basis. We consider that this is a rare opportunity to overhaul existing structures and do not believe that it would be sensible to wait until the new structures under RPA become embedded, only to change them again in the near future.

The Department absolutely accepts the importance of adoption services at a local level and the need to keep a focus on adoption within local childcare teams. We consider that the continued presence of locally-based adoption workers established as part of child care teams within HSS Trusts will ensure that this focus is maintained and that specialist expertise is shared. The overriding concern for the organisation with regional responsibility will continue to be the welfare of children and we will expect interactions with local Trusts to reflect this. Legislation will set out in more detail how this will work in practice.

Proposed Model

7.1.11 Several respondents raised concerns in relation to the clarity and workability of management and accountability arrangements under the proposed model.

7.1.12 The issue raised by most respondents, however, was the position of the voluntary sector in the delivery of adoption services. One organisation questioned whether the range of voluntary sector organisations is required within N.I. for the range of services. However, the majority of respondents were concerned that the model for future service delivery did not outline the future role of the sector in the adoption service. It was suggested that the voluntary sector needs to link into the statutory sector within a good strategic planning model.

Conclusions

The Department fully concurs that it is essential that accountability and management arrangements within the regionalised structure are explicit and unambiguous. We will ensure that legislation and guidance clearly defines roles and responsibilities in the delivery of the service including the contribution of the voluntary sector.

The model outlined at Appendix H of the strategy was intended to outline a proposed reorganisation of statutory services and assumed an ongoing interface with the voluntary sector as outlined in Key Action 18. Nonetheless, the

Department accepts that the voluntary sector has a key role to play in service delivery and will amend the model to reflect the role of the sector.

Regional Organisation

7.1.13 One organisation questioned how the overarching Trust would be selected. Several other organisations suggested alternatives to an RPA Trust having responsibility for regional services, considering that it should be independent of the Trusts. The views expressed and the range of options suggested included the following:

- regional provision of such services by a voluntary agency be given equal consideration to possible provision by a Trust;
- the regional body should be independent of all Trusts and be responsible for planning and management of adoption services with actual delivery of these services is at a local level;
- each RPA provider Trust should remain an adoption agency with the potential to enter into consortia with other Trusts;
- The new Regional Authority should set the strategy and manage outcomes, ensuring efficiency, effectiveness and improved outcomes for children to ensure a service that is more responsive to the locally determined needs of looked after children and which maximises the use of limited resources, while not being constricted by a centrally managed and isolated regional centre;
- one Trust with regional responsibility could create a hierarchy amongst the new Trusts and might not lead to the enhanced efficiency that is envisaged;
- the RHSSA, equipped with the specialist expertise and skills, could plan, manage and control the adoption service, providing accountability, monitoring and evaluation regionally with the new Trusts maintaining and supporting delivery of the adoption service locally.

Conclusions

In developing the strategy proposals, the Department has given thorough consideration to the role of the Regional Health & Social Services Authority in relation to regionalising the adoption service. Whilst the Authority will clearly be responsible for commissioning services and monitoring performance, responsibility for the delivery of many services will continue to rest with HSS Trusts.

We consider that some of the problems endemic in the system would not be alleviated by Trusts entering into voluntary consortia arrangements because there would still be duplication and the scope for inconsistency in service

delivery. For all of the reasons outlined in the strategy document and in this document, it is our view (and that of many key stakeholders) that the numbers involved in adoption, the size of the new HSS Trusts, and the highly specialised nature of adoption, the service would be most effectively, consistently and efficiently delivered by one HSS Trust, working in conjunction with the other local HSS Trusts, to achieve the same outcome in promoting permanence for children. This approach is not entirely unprecedented as some Trusts already provide specialist services, demonstrating that this is a viable framework for Northern Ireland.

We fully recognise that adoption is and must remain a central part of child care services and that in a modern context the two are inextricably linked. We are confident that the proposed model represents the most effective route to securing permanence for the children who need it most.

Regional Functions

7.1.14 Whilst there was mixed opinion on the regionalisation of services, 59% of respondents supported the regional co-ordination of the functions outlined, albeit that some considered that they may need to be delivered locally. In particular, adoption support services were suggested by a number of respondents. It was suggested that consideration should be given to having a specialist adoption support services agency, particularly in relation to therapeutic services, that is separate to, but accessible by, statutory adoption services. However, one group cautioned that there may be occasions when aspects of the post adoption service need to be dealt within RPA Trusts. It questioned, for example, which Trust would have responsibility for adoption allowances.

7.1.15 Intercountry adoption was also suggested by a number of respondents as an aspect of the service that might be better delivered regionally. One group, however, sought clarification on how it might work particularly from the point of view of children who move to live in a Trust area and the Trust's responsibility in relation to 'protected children'. This group also felt that enquiries, preparation and training for adoptive applicants should have a strong, local element based on RPA Trusts.

7.1.18 A further area respondents considered could be delivered regionally was publicity and recruitment; one respondent suggesting that this should be extended to all of the children's services, particularly as adoption is now an inherent part of these services. Another considered that there is also potential to regionalise training and a matching facility. It was suggested that the proposal to centralise and create one panel has some advantages but could pose difficulties with the level of commitment required and the development and maintenance of expertise to facilitate turnover.

7.1.19 Two other respondents considered that the proposed structure should include a multidisciplinary focus, including 'health experts', dedicated LAC Clinical Psychologists and CAMHS professionals (psychology, psychiatry, nursing, etc.).

Conclusions

The Department is satisfied that there is scope for regional co-ordination and delivery of aspects of the adoption service and will continue to engage with stakeholders as delivery mechanisms for children's social services become more clearly defined. Legislation will clearly outline the extent of organisational responsibilities.

We accept that adoption services need a multidisciplinary component, particularly adoption support, and would anticipate a strong multidisciplinary dimension in the delivery of services. We will amend the regional model to reflect this focus.

7.2 Development of Workforce & Multi-disciplinary Training

- 7.2.1 There is widespread recognition that the complexity of the social work task requires highly skilled, competent staff. 'Adopting the Future' identifies that social work practitioners need to be trained and qualified, and kept up to date with new skills and developments in professional practice. It considers that education and training have a key role in raising the standard of both care and protection of children in our society.
- 7.2.2 Progressing the adoption of children is one of the most difficult tasks facing social workers today. The strategy acknowledged the work undertaken to enhance competencies in adoption practice and concluded that it is essential that the social work resources are appropriately planned, organised and controlled to achieve the best outcomes for children.
- 7.2.3 The strategy highlights problems in recruiting and retaining child care social workers and states that the Department is taking this very seriously. Staff shortages do jeopardise the ability of social services to deliver on policy commitments and we know that a confident and well-trained workforce is central to the improvement of adoption services. In particular, there is a need for skilled, specialist social workers to work with children and potential adopters throughout the adoption process.
- 7.2.4 Key Action 17 proposed the enhanced development of skills and training to ensure practitioners have the competencies needed to work in this complex area of childcare, and to promote the development of expertise in adoption issues. It also proposed that training on the new adoption policy and legislation would be developed for all delivery mechanisms, social work staff, adoption specialists, and multidisciplinary professionals including the judiciary. We asked:

Do you support *Key Action 17* (Workforce Development and Training) as a means to improve existing services?

Response	Number of Responses
Yes	20
Response Document Not Used/Not Expressly Indicated on Response Document	4
No	1
Total	25

- 7.2.5 There was again widespread support for this proposal, several respondents acknowledging the complexity of adoption and welcoming the

Department's commitment to training. It was noted that the courts demand a level of expertise from social workers in giving evidence and it was considered essential that all staff involved with the child, not just specialist family placement staff, are given the opportunity to develop their knowledge and skills in this area.

- 7.2.6 A number of respondents specifically supported the provision of multi-level, multi-disciplinary training. The participation of the legal profession and judiciary in joint training was considered particularly important by several respondents.
- 7.2.7 Two organisations made suggestions on the content of training. These included training on:
 - children's rights including on the United Nations Convention on the Rights of the Child and the European Convention on the Rights of the Child;
 - advocacy and how the professional delivery of advocacy can compliment social work practice; and
 - obtaining the views of children and young people.
- 7.2.9 On matters of workforce, one group highlighted that there exists a number of skilled and expert professionals within Northern Ireland, including the voluntary sector, and suggested that best use needs to be made of human resources in terms of sharing rather than competing for such resources to ensure equal geographical distribution of support.

Conclusions

The Department acknowledges that a high number of respondents were supportive of this proposal. We will continue to engage with stakeholders to ensure appropriate multi-disciplinary training is delivered on an ongoing basis and in particular, in preparation for the implementation of new legislation. We will ensure that the views of respondents on the content of training will be considered in the developmental stages.

7.3 Partnership Working

- 7.3.1 The voluntary sector is a key part of adoption services. They are able to develop specialist skills and are often innovative. By working together voluntary agencies and HSS Trusts can share best practice and provide a better service for everyone involved in adoption. ‘Adopting the Future’ highlights how, unfortunately, voluntary agencies are still restricted in their business and strategic planning by the often ad hoc or short-term nature of purchasing decisions by statutory agencies. Equally, voluntary agencies provide these services often at a fraction of the equivalent prices in England and Wales.
- 7.3.2 The strategy outlines how Trusts can benefit from working with voluntary agencies, especially when finding homes for ‘hard to place’ children, as the voluntary sector has specialist expertise in this area. In order to achieve a modern adoption service, the strategy concludes that it is imperative that existing networks are developed and built upon to create a cohesive framework of partnership working across all agencies. This is particularly important in the future delivery of adoption support services in Northern Ireland as envisaged at Key Action 11.
- 7.3.3 Key Action 18 proposes that the Department should work with both statutory and voluntary agencies to:
- gain commitment to an acceptable and sustainable level of investment in voluntary sector services;
 - create a culture of co-operation through the identification of opportunities to develop and enhance effective cross-sector working; and
 - build capacity and standards in both sectors to deliver an adoption service that offers families quality and choice within a first-rate, modern service.

We asked:

Do you support the measures outlined in Key Action 18 (Partnership Working) as a means to foster a better dynamic between the statutory and voluntary sectors?

Response	Number of Respondents
Yes	19
Yes in Principle	1
Not Expressly Indicated	6
No	1
Total	27

- 7.3.4 The majority of respondents (70%) commenting on this Key Action expressly supported it. It was highlighted that the voluntary sector has much to offer, particularly in relation to adoption support and most respondents advocated that partnership between statutory and voluntary organisations should be strengthened.
- 7.3.5 In addition to their individual responses, the three voluntary adoption agencies registered in Northern Ireland provided a joint response on the consideration of the voluntary sector in 'Adopting the Future'. It welcomed the commitment to developing partnership between the statutory and voluntary sectors, noting that where collaboration has occurred, outcomes have been positive for children. The organisations highlighted the lack of a strategic approach and ring-fenced funding as limiting the potential for meaningful collaboration and reiterated the concern expressed in relation to Key Action 16 of the absence of the voluntary sector in the proposed model for service delivery at Appendix H. This was also echoed in the individual responses of two of the organisations.
- 7.3.6 Whilst welcoming the proposal, two organisations also emphasised that there was a need for greater strategic planning from the statutory sector to maximise the benefits of the voluntary sector. It was suggested that there will be a need for stronger guidance from the Department as the spot purchase nature of arrangements inhibit the development of a vibrant and effective voluntary sector and in so doing inhibits choice for service users. It was also highlighted that the regional authority will be well placed to maximize those opportunities as part of its regional commissioning and monitoring role.
- 7.3.7 Several respondents suggested there was a need for greater clarity in the respective roles of statutory and voluntary sector agencies to ensure that these are fully understood. It was suggested that contracts need to specify standards and it was identified that good working relationships are important in identifying the strengths and opportunities to develop the service.
- 7.3.8 Resourcing the sector was another key issue identified by respondents, although one which caused mixed views. Some respondents highlighted the unique value of voluntary agencies, particularly in placing children, and stressed that it is imperative to underpin their role by ensuring reliable and predictable sources of income.
- 7.3.9 One organisation queried why specific mention was made of the voluntary sector needing investment as the organisation considered it was required across all sectors. It was also suggested that it may not be sensible for Trusts to be spending large sums of money to ask volunteers to recruit carers, and that it may be more appropriate for a limited amount of

centralised funding to be allocated to the voluntaries so that they may recruit alongside the Trusts with a view to these applicants being used by Trusts when they are unable to find any suitable applicant for a particular child.

- 7.3.9 This view about the relative strengths of statutory agencies and the need to add value was also suggested by two other organisations. One statutory agency highlighted the expertise within the statutory sector and reflected that whilst the voluntary sector may not necessarily have greater expertise, it recognised that voluntary agencies are well placed to provide aspects of adoption services, particularly where independence from family and childcare services is preferred, eg. birth parent counselling. Another considered that discussion and collaboration is needed to ensure that best practice is disseminated so that any future measures bring added value to the service and not duplication of effort.
- 7.3.10 One voluntary organisation conveyed the disappointment and concern of members at what it considered to be the limited consideration given to the role and contribution of voluntary adoption agencies throughout the consultation document. It was advocated that the role of the voluntary sector should be recognised, promoted and supported within the strategy and that the statutory sector must acknowledge and demonstrate the importance and value of the partnership with the voluntary sector by ensuring that in all aspects this partnership is fair and equitable.
- 7.3.11 Two responses proposed the involvement of the voluntary sector in training, both in development and delivery. It was again suggested that training should include specific training on children's rights and advocacy.

Conclusions

The Department recognises the value of the voluntary sector in adoption and foresees a continuing role for the sector in the delivery of future services. As outlined in 7.1, the model at Appendix H of the strategy was intended to be a model outlining the proposed reorganisation of statutory services and assumed an ongoing interface with the voluntary sector. However, the Department accepts that a model for service delivery should necessarily reflect the role of the voluntary sector and the proposed model will be amended accordingly.

We believe that voluntary agencies do have particular strengths and have a long-term role to play in adoption services. It is vital, however, that resources are managed in such a manner as to enable the voluntary sector to continue to develop and deliver innovative, high-quality services. The Department considers that greater regionalisation in planning and co-ordinating adoption services will contribute to a greater culture of cross-sectoral partnership.

8 Intercountry Adoption

8.1 Intercountry Adoption Today

- 8.1.1 Chapter 5 of ‘Adopting the Future’ sets out the process and features of contemporary intercountry adoption (ICA). It describes how the reduced number of relinquished babies needing adoptive placement in Northern Ireland is a key factor in the increasing numbers of adopters who are pursuing ICA. Other reasons can include perceptions about long waiting times to adopt looked after children in Northern Ireland, the implications of the possibility of contact in domestic adoption, as well as the potentially complex needs of the children involved. The strategy highlights how children adopted from abroad can also have support needs and the additional measures in place to support families who adopt from abroad.
- 8.1.2 The strategy identified the following difficulties in service provision:
- The number of families involved in intercountry adoption, combined with the varying requirements and procedures in relation to different countries, often makes it difficult for statutory agencies to develop the multi-disciplinary expertise essential in this highly specialised area.
 - As with domestic adoption, services to intercountry adopters can be inconsistent. For example, whilst most intercountry adopters in Northern Ireland are charged (c. £3,000) for assessments of suitability, the statutory agencies in one HSS Board area do not charge a fee for this service.
 - Parents, relatives and guardians of children living abroad, for example, are not currently subject to the same requirements for non-relative intercountry adopters.
 - In domestic adoption, the agency which is placing the child asks its Adoption Panel for a recommendation on whether the prospective adopters would be suitable to adopt the child. The Adoption Panel is independent of the case and is comprised of people who have specialist expertise in adoption. In ICA, because the overseas authority is considered to be the agency placing the child, there is no role for a domestic panel in the matching process.
 - Unlike domestic adoption, DHSSPS undertakes a direct operational role in ICA. Despite the relatively small numbers involved, the nature of the work is extremely complex and resource intensive. At present, DHSSPS is meeting the cost of providing this service at the expense of the public purse.
- 8.1.3 It states that it is the Department’s aim to ensure that Northern Ireland’s children grow up in stable and loving families. To achieve this aim, Government’s first priority must always be to children in need of adoption in Northern Ireland. Our role in intercountry adoption is not and cannot be to take responsibility for all of the children needing adoption abroad but

rather to protect any children who do come to this country through ICA.
The Response Document asked:

Do you consider that Chapter 5 correctly identifies all of the relevant issues in intercountry adoption?

Response	Number of Respondents
Yes	19
Don't Know	1
Response Document Not Used/Not Expressly Indicated on Response Document	1
No	3
Total	24

8.1.4 Whilst the majority of respondents expressly indicated that they considered that the chapter correctly identified all of the relevant issues, there were some very strong views on how the ICA service is perceived and provided for in both Northern Ireland and the UK as a whole. It was suggested that;

- the view of inter country adoption presented in chapter 5 is narrow and mean spirited. Should we be so narrow in our thinking that we will only positively support adoption for our own children who need it and ignore the needs of those in the rest of the world, often just a few hours flying time from the UK?;
- the children who are intercountry adopted into Northern Ireland become our children. If their adoption is the result of poor or corrupt practice in their birth country it is we who will have to provide services to cope with their subsequent problems and distress. The UK government and adoption agencies need to develop a much more pro-active role in relation adoption practice in countries sending children to the UK - we should be seeking to ensure that the whole process is developing to reflect best international standards. It is reasonable to believe that there are professionals and government officials in the sending countries who would welcome assistance along the road to best practice;
- since a foreign national child is brought into the country is already deemed 'medically fit and well' as a result of the current rigorous investigative medical requirements, the cost to the NHS compared to that of a British citizen's birth child's ante and early post natal care requirements is bound to be more burdensome;
- since there is a shortage of domestic adopters and that the UK does not currently have major concerns with regard to its national birth rate, the government's policy is to effectively

discourage ICA. This is in contrast to France and Italy, which both have low national birth rates, fertility treatments are publicly funded, second time mothers are awarded a 'cash handout', and the number of intercountry adoptions per year is around ten times that of the UK, even though these countries have population sizes similar to the UK;

- children from Northern Ireland should be a priority.
- the growing incidence of intercountry adoption will continue to impact on the difficulties already experienced in recruiting domestic adopters.
- the legal authority to apply similar standards in both domestic and intercountry adoption still needs to be clarified and suggested that the proposed new legislation seems to be a good opportunity to remove any ambiguity.

8.1.5 One organisation advocated that unless it is contrary to their best interests, children should be placed for adoption in their country of origin given the importance to a child's sense of identity and continuity and maintenance of racial, ethnic and social background. However, acknowledging that it is not always possible for children to be adopted in their own country, the organisation stressed that the Department must be informed by international standards on intercountry adoption which require equivalent safeguards and standards as exist in domestic adoption. It recommended that the Department put in place additional safeguards to ensure that children adopted from abroad experience the same level of protection as those children subject to domestic adoption.

8.1.6 One individual, who is a prospective intercountry adopter, whilst acknowledging the necessity for assessment, commented on the discrepancies in services, specifically waiting times and fees, across the region.

8.1.7 Other comments on service delivery included:

- The need for further consideration to be given to the role of the Voluntary sector in working alongside statutory agencies in the delivery of the intercountry adoption service.
- Whether it should be a requirement as opposed to an expectation that applicants attend Preparation Courses;
- A suggestion that immigration regulations should be simplified further in cases of adoption than they are at present so the concern is ensuring the welfare of the child, which is a matter for social services, not the immigration authorities;
- A view that matching procedures should not make the process any longer.

8.1.11 On the proposals to introduce upper age restrictions, one respondent commented that ICA appears to be the main driver for their introduction

across all types of adoption, in spite of the equality and human rights implications. It was suggested that if it is appropriate to do so for ICA, then this it should be limited to ICA. It was considered that this would be open to legal challenge but that so is any age limit.

Conclusions

The Department appreciates the sensitive moral and political questions intercountry adoption poses. We recognise that intercountry adoption can be an effective option for some children to benefit from a loving family life. We would state categorically that where we and a child's State of origin believe it is in a particular child's best interests to be adopted by a specific family in Northern Ireland, that child will be embraced, protected, supported and valued as member of their new family and of our society. The reality remains, however, that there are many children living in Northern Ireland now, children for whom the State is directly responsible, who also desperately need to be adopted. We consider that our primary duty must be to finding families for them and our resources need to be prioritised accordingly.

We will work with agencies, both statutory and voluntary, to prepare and support prospective adopters so they have realistic expectations of the implications of adoption, both domestic and intercountry. We appreciate that the profile of children some people wish to adopt often does not match the profile of children needing adoption in Northern Ireland but adoption policy is necessarily driven by the needs of children here.

Whilst the upper age restrictions are unlikely to have a significant impact on domestic adoption, the UNCRC obliges states to apply the same rigorous standards of practice in both domestic and intercountry adoption derive. It is for this reason that we consider the proposed upper age restrictions must apply to both. Whilst immigration is an excepted matter and therefore one which only the Home Office may regulate, the Department is the primary Government agency involved in all legitimate intercountry adoption cases, and we have ongoing liaison with the Home Office to ensure that intercountry adoptions only take place where they are in the best interests of the child.

8.2 ICA - Infrastructure

- 8.2.1 The strategy concludes that in view of the numbers involved and the proposed regionalisation of aspects of the adoption service as outlined in Key Action 16, there is scope for greater regionalisation in ICA. To allow the development of concentrated, specialist expertise in intercountry adoption, Key action 19 proposes that responsibility for the management and delivery of all ICA services should rest with one agency. This should enable the more effective, efficient and consistent delivery of services across Northern Ireland. It is proposed that this regional responsibility should rest with the regional centre as outlined at Key Action 16. Charging for intercountry adoption services would therefore be consistently applied across Northern Ireland. We asked:

Do you support Key Action 19 (Infrastructure) as a means to provide a better, more efficient and more consistent intercountry adoption service for than the existing structural framework?

Response	Number of Respondents
Yes	18
Don't Know/Unsure	2
Response Document Not Used/Not Expressly Indicated on Response Document	5
No	1
Total	26

- 8.2.2 As indicated in the response to Key Action 16, the majority of respondents were supportive of the proposal to regionalise intercountry adoption services. Some respondents commented that this was a logical move in view of the relatively small numbers involved in ICA and the need for a high degree of specialism. One individual expressed support for the proposal if it resulted in reduced waiting times for assessment. Another respondent agreed that one agency should take responsibility for ICA but stressed that the multi-disciplinary nature of ICA would require clarity and inter-agency working.
- 8.2.3 Whilst acknowledging that intercountry adoption requires specialist knowledge, one organisation questioned whether the proposed infrastructure is the best way to deliver the service.
- 8.2.4 Three other organisations argued that responsibility should remain with Trusts, two suggesting the consortia working might be a more appropriate way to overcome existing problems as there was still a need for Trust involvement, eg. in relation to post placement responsibilities of the paediatrician, GP, Health Visitor and Social Worker.

- 8.2.6 Echoing the concerns expressed in relation to Key Action 16, one respondent stressed the need for clarity of roles, particularly in relation to agency responsibility once a child resides in Northern Ireland.
- 8.2.7 Another individual suggested that targets for processing adoption applications should be set to ensure the system is handled more efficiently.

Conclusions

The Department is satisfied that there is greater scope for regional co-ordination and delivery of intercountry adoption than consortia arrangements as we consider the elements of consistency and expertise to be best served on a regional basis. We will continue to engage with stakeholders as delivery mechanisms for children's social services become more clearly defined. Legislation will clearly outline the extent of organisational responsibilities.

8.3 Intercountry Adoption – Protecting Children

- 8.3.1 In fulfilling our responsibilities to take measures to ensure that intercountry adoptions are in the best interests of the child and ensure that children in intercountry adoption enjoy safeguards and standards equivalent to those in domestic adoption, Key Action 20 proposes that restrictions on bringing children into the UK should be strengthened in new legislation so as to apply to parents, guardians and relatives. The upper age restrictions proposed at Key Action 8 should also apply to intercountry adoption (ICA).
- 8.3.2 It is also proposed that legislation should require the consideration of a “match” in ICA by an intercountry Adoption Panel. It is envisaged that this Panel would be appointed by the regional centre (see Key Action 16) and would be responsible for considering the suitability of intercountry adoption applicants and responding quickly to proposed placements from overseas, providing expert multi-disciplinary advice on the suitability of a proposed match. The Key Action also stated that the Department will consider whether there is scope for the further development of intercountry adoption expertise at a regional level in post- placement support arrangements for children and adoptive families. We asked:

Do you support the measures outlined in *Key Action 20 (Protecting Children)* as a means to provide greater safeguards for children in intercountry adoption?

Response	Number of Respondents
Yes	14
Yes in relation to upper age restriction	1
Don't Know	1
Response Document Not Used/Not Expressly Indicated on Response Document	7
No	6
Total	29

- 8.3.3 Opinions were again divided on this proposal. Whilst 48% of respondents expressly supported the measures proposed, several respondents expressed reservations particularly in relation to the proposed additional functions of a Panel.

Establishment of Regional ICA Panel

- 8.3.4 Four organisations were not convinced of the benefits of a regional ICA panel. It was suggested that it was unclear how it would be in a better position to ensure appropriate safeguards. There were concerns about

how a specialist panel would link with local Trusts who carry out adoption assessments and that different standards may develop between ICA and domestic adoption with different panels. One group queried whether the single panel would also take responsibility for agreeing the adoption support plan and suggested that local Trusts would need to be involved in that to ensure that the plan is realistic, particularly around the issue of 'protected children'. As an alternative, it was suggested that voluntary consortia working arrangements might provide a more appropriate way forward and that ongoing training and development should be available for domestic panel members to negate the need to establish an expert panel.

- 8.3.5 Four other organisations, however, whilst recognising the potential difficulties posed by a regional panel, were supportive of it. It was stressed that Trusts must ensure post-placement support is available and that processes in 'sending' countries may need to be changed to take account of the role of a panel. It was also considered that it would be helpful if the DHSSPS role in processing intercountry adoption applications could extend to engaging formally with sending countries. However, one respondent considered that it could provide a valuable focus for the development of expertise in intercountry adoption and perhaps an engine for developing better practice both in NI and in the sending countries.

Conclusions

As outlined in the strategy, the Department considers that a regional Panel is the most appropriate method to ensure consistency and maintain specific expertise in this area of work. We anticipate that the Panel will be made up of representatives experienced in domestic adoption practice, thus ensuring consistency of standards. There will therefore necessarily have to be close working relationships with the statutory agencies involved, particularly on the issue of support, but we are confident that regional co-ordination of support services will ensure that services are managed efficiently.

Panel Considering 'Match'

- 8.3.6 There was some concern that the value of a Panel considering a match would be limited because of a perception that ownership of the process belongs to the sending countries. One individual commented that the detailed matching criteria in the adoption application is already sufficient for agencies here in approving applicants, and for the overseas officials to subsequently make an appropriate matching decision. It was also suggested that on a practical level, there were a number of difficulties:
- A local adoption panel would not have access to the range of information about the child that adoption panels have in considering a domestic adoption placement and would be no more likely than

- the agency to be able to obtain more detailed information on social background, medical information and consent.
- The timing of the Panel was queried as, unlike domestic adoption, prospective intercountry adopters often receive information at the same time as the Trust, including a photo of the child.
- There were concerns that it would cause unnecessary delay.
- There is a danger that such a Panel would be merely "rubber stamping" as it may be hard to object unless there are very obvious reasons.

- 8.3.7 One organisation suggested instead that advice on the match should be given by social worker in consultation with Medical Advisor and either a senior agency manager designated for the task or the Panel Chair.
- 8.3.8 However, several other respondents considered that children in ICA should benefit from the same standards and safeguards as those adopted domestically. It was suggested that this consideration must occur at an appropriate stage within the process and ideally before the prospective adopters travel to meet the child in its country of origin.

Conclusions

The Department has carefully considered the views of respondents on this issue and accepts that standards of practice outside the control of domestic agencies are likely to restrict the effectiveness of a matching Panel in Northern Ireland. We do not, therefore, intend to proceed with the proposal as outlined.

We remain anxious, however, to ensure that children entering Northern Ireland from abroad through adoption receive the highest possible levels of protection. We therefore intend to detail further in legislation the processes which should be undertaken by agencies on receipt of a match, approximating as closely as possible the consideration given to a match in domestic adoption. We will continue to liaise with stakeholders and intend to consult on the detail as the policy progresses.

The additional functions of the Central Authority under the Hague Convention will also continue to be undertaken centrally to ensure that proper standards prevail and that proposed intercountry adoption placements will first and foremost serve the best interests of the child.

Age

- 8.3.9 Three organisations commented on the proposal to introduce upper age restrictions;
- One welcomed the proposals.

- An HSST reiterated its view that there should not be an upper age limit in Northern Ireland legislation.
- A voluntary organisation considered that it was difficult to justify an arbitrary age.

Other Issues

- 8.3.10 One respondent considered that children subject to ICA have an increased need for post adoptive support services, which should be regulated by the Department or regional centre. The organisation questioned whether children subject to ICA are likely to have their cultural needs met as failure to do so could have a detrimental impact on their mental health. It also suggested that specialist training for prospective adopters on cultural considerations in the care of these children would be advantageous.
- 8.3.11 Another organisation expressed concern about children entering the UK, despite immigration controls, without the knowledge of social services. It considered that the Department must ensure that there are adequate restrictions in place on bringing children into the UK.

Conclusions

The Department acknowledges that the proposed age restrictions likely to have a greater impact in intercountry adoption as older applicants are less likely to be matched with very young children in domestic adoption. As outlined at 5.2, however, the Department is concerned that the subjectivity of judgements on the ability of older applicants to retain the necessary health and vigour to care for a child into adulthood and beyond leads to inconsistency of practice and standards across the region - particularly between domestic and intercountry adoption. The Department intends to introduce this measure as we believe that it will remove some of this subjectivity, providing greater protection for children, whilst retaining appropriate exceptions to ensure that opportunities for children to find families will not be compromised. In this case, the age range proposed attempts to reflect current birth trends in Northern Ireland.

The ability of prospective adopters to meet the cultural needs of any adopted child is a key consideration in the adoption preparation and assessment process and agencies will only approve a person as suitable to adopt if it is satisfied that he/she will be able to meet a child's needs into adulthood and beyond. We acknowledge the additional support needs of children adopted from abroad and therefore have in place a unique system of support for children and families from the moment they enter Northern Ireland. The support needs of these children will be given specific consideration in the further development of adoption support services.

As outlined above, immigration is an excepted matter but Government continues to monitor the effectiveness of its immigration controls to promote the welfare of children.

8.4 Intercountry Adoption - Charging for Casework

- 8.4.1 The DHSSPS is a Central Authority under the Hague Convention on Protection of Children and Co-operation in respect of Intercountry Adoption. As such, it is charged with specific responsibilities surrounding the implementation of the Convention, both where Northern Ireland is receiving children from abroad and where children from Northern Ireland are adopted overseas. These responsibilities are reflected in the process of intercountry adoption whereby, in contrast to domestic adoption, this Department has a direct role in intercountry adoption casework.
- 8.4.2 The unique role of the Department in intercountry adoption requires varying degrees of involvement in all intercountry adoptions, with some officials exclusively dedicated to this process. Despite the relatively small numbers involved, the nature of the work is extremely complex and resource intensive. At present, DHSSPS is meeting the cost of providing this service at the expense of the public purse. This position is not reflected elsewhere. Many adoption agencies across the UK charge a fee for intercountry adoption assessments. In addition, The Children and Adoption Act 2006 in England and Wales and the Adoption and Children (Scotland) Act 2007, also contain powers for the respective Departments to charge for the services they provide to intercountry adopters. Accordingly, we do not believe that it is appropriate to continue to effectively subsidise private individuals in this undertaking. Key Action 21 proposes the introduction of a charge for the work carried out directly by Departmental officials for the processing of intercountry adoption casework. We asked:

Do you support Key Action 21 (Charging for DHSSPS Casework)?

Response	Number of Respondents
Yes	12
Don't Know/Unsure	2
Not Expressly Indicated	3
No	7
Total	24

- 8.4.3 50% of the responses on this proposal indicated “Yes” on the response document; 29% indicated “No”.
- 8.4.4 Several respondents were concerned about the equality implications of introducing a charge for this aspect of the service, some questioning whether it might create a situation where the option of intercountry adoption might only be available to wealthier families. It was suggested that any charge should be fair and proportionate so as to enable equal access by all section 75 equality groups. However, it was also proposed

that as it is a statutory responsibility, the entire process should be subsidised by the state.

- 8.4.5 One organisation was concerned that introducing a charge would exacerbate an already expensive and complex process and questioned how fees for a relatively specialised area of work could be for delivery of a Departmental service without the system becoming unduly administratively cumbersome.
- 8.4.6 A prospective intercountry adopter considered the proposal extremely unfair on people who wish to start a family through ICA and questioned the priorities and motives of government in this regard. The respondent was of the view that the proposal is simply a convenient way of sourcing revenue to help recover some of the waste and mismanagement of funds in other areas, at the expense of a vulnerable group of people, who in their desperation to build a family are unlikely to object. The individual suggested that the commitment on the part of inter-country adopters is something that should be welcomed rather than penalised. The response questioned why our health care system is willing to fund the hundreds of thousands of abortions carried out every year in the UK and the treatment of many preventable chronic illnesses resulting from smoking, alcohol abuse and obesity yet refuse to fully support those wishing to start a family, which the individual considered a fundamental right, a normal and noble goal, and the fundamental unit of society.
- 8.4.7 It was further highlighted that people who wish to start a family but who are unable to conceive naturally, generally have two options: assisted conception or adoption. If they do not wish to adopt domestically, and choose fertility treatment through IVF, they are generally entitled to several cycles of treatment paid for by the NHS. If, however, they wish to pursue inter-country adoption, they suffer hefty bills to fulfill the statutory requirements on top of the great expense associated with foreign adoption. It was suggested that this seems unfair on those who wish to choose the latter option.
- 8.4.8 The respondent considered the Department's position narrow minded and heartless as those who wish to provide opportunities for a child to enable him to make a positive contribution to an increasingly multi-cultural society in N. Ireland and as a future UK citizen and tax payer, are effectively penalised for taking up the challenge.
- 8.4.9 Another organisation questioned the ethical appropriateness of charging for any aspects of ICA, suggesting that it reinforces the view that ICA is the commodification of children, raising major ethical issues. The organisation did not wish to support what it viewed as the concept of trading in children. It was also concerned that in paying for a service, ICA

applicants' expectations of being approved might be raised together with their expectations of the service to be delivered which may not be realistic, given other work pressures.

- 8.4.8 One group commented that consideration needs to be given to the UNCRC and suggested that it might be helpful to ascertain the position in the Republic of Ireland. Another was unclear as to whether charging for administration of these applications would be levied at the applicants.
- 8.4.9 Other respondents considered that it was appropriate for the Department to charge for casework. It was suggested that the proposal would be acceptable so long as the cost of administering did not outweigh the financial benefits provided and that there should be guarantees with regard the efficiency of the process. Two HSS Trusts indicated that it would be acceptable if it maintained parity with other jurisdictions in the UK.

Conclusions

As indicated elsewhere, the State is not obliged to help people found a family through adoption. We have a duty to the children needing adoption in Northern Ireland to prioritise our resources appropriately and consider that it is therefore reasonable to charge applicants for the services provided by HSS Trusts and public servants.

In view of concerns that an additional charge may make intercountry adoption a service for higher-income earners only, we are prepared to agree a level of income below which the charge may be waived. However, we do not consider that any charge would represent a significant additional burden in the context of the overall cost of intercountry adoption, which can run to many thousands of pounds.

9 Other Comments

- 9.1 'Adopting the Future' was produced following an extensive review of adoption in Northern Ireland, also encompassing developments in other jurisdictions and spheres of law. It is a wide-ranging strategy which does not focus exclusively on adoption but seeks to enhance permanence for looked after children generally and improve the involvement of children and young people in the decision-making affecting them. We consider this to be a unique opportunity to improve permanence for looked after children and want to ensure we get it right. We therefore sought views on whether there were any other issues respondents would wish to see covered by strategy and whether people had any other comments they thought might be relevant to the development of the strategy.
- 9.2 Several organisations highlighted the financial implications of the strategy over the coming years and stressed that it must be properly resourced if outcomes are to be realised. It was also suggested that related services in family and childcare also need further investment as improvements cannot be made in isolation. One organisation highlighted the UK's obligations to provide information to the UN Committee on; the amount and proportion of funding allocated to social expenditure on children; the steps taken to ensure that authorities are guided by the best interests of the child in their budgetary decisions and evaluate the priority given to children in their policy making; and the measures taken to ensure that children, particularly those belonging to the most disadvantaged groups, are protected against the adverse effects of economic policies, including the reduction of budgetary allocation in the social sector.

The Department appreciates the need for investment in adoption services, and particularly in the area of adoption support. Resources will be a key consideration for the Department for building capacity in preparation for the implementation of a new framework for adoption.

Child Focus

- 9.3 There was concern that not all the proposals in the Document are child-led and are often influenced by other issues such as the equality agenda. Respondents stressed the need to keep the best interests of the child as the central focus for parents, extended family, social services and family courts. A number of respondents also expressed views on how best the child's welfare could be secured at the centre of decision-making in adoption:
- Legislation and practice must also take into consideration the developmental stages of an adoptive child's life, as they grow-up, attend school, relationships, university, employment etc.

- The welfare of the child would be better expressed in terms of the CRC criterion of “the best interests of the child”.
- Particular key action areas, namely the paramountcy of the welfare of the child and ensuring the child’s voice is heard, could be more appropriately elevated to over-arching guiding principles that should be reflected consistently and explicitly across all of the proposed key action areas to ensure that the objective of keeping the child at the very heart of the process is achieved.

The welfare of children is the fundamental concern in ‘Adopting the Future’ and the central driver in its development. We consider that this is explicit throughout the document. As outlined above, in the development of new legislation, the Department will consider how best to ensure that terminology is also consistent with the principle of permanence, the principles of the UNCRC and international adoption law, without undermining the integrity of the paramountcy principle. The Department also recognises the changing needs of adopted people as they progress through life and intends that agencies and courts will be required to consider the impact of adoption on a child ‘throughout his life’ as part of the welfare checklist.

Outcomes

9.4 Two Health and Social Services Boards suggested that the strategy was too negative in its portrayal of the outcomes for looked after children and has the potential to further stigmatise this service and the children who require placements within it. It was highlighted that the over-emphasis on poorer outcomes ignores those who succeed and also the range of difficulties which children have pre-admission due to rising thresholds for admission, which inevitably weighs the scale against good outcomes in general. It was therefore advocated that the outcomes for looked after children should be conveyed in a more positive light.

Children who spend long periods in care tend to have poorer outcomes than the general population. As the strategy was focused on the need to promote adoption as the best option for permanence, it necessarily weighted the benefits of adoption against less stable forms of care. We accept that children for whom adoption is not suitable, other forms of care bring benefits and that improved outcomes are being achieved for looked after children. We will reference this briefly in the final version of the strategy.

Health

9.5 Both Boards also commented on the health needs of looked after children, highlighting that they are more likely to have complex physical, developmental, emotional and educational needs. It was emphasised that the importance of quality health care for these children needs to be more

clearly stated in the document together with the need for health professionals to better support Social Services in this respect. It was also suggested that there is a need to develop specific services for both birth parents and applicants for approval as adopters or foster carers.

The strategy does outline the increasingly complex needs of many looked after children, particularly those who may not be able to return home. We accept that there is an attendant need for better health care and will highlight this in the strategy.

Regulations and Guidance

- 9.6 A number of respondents referred to the work to be undertaken in relation to the regulations and guidance supporting new primary legislation. One organisation considered that the proposals lacked the level of detail and clarity required to provide a clear sense of the shape and form of the adoption service which is to be established in the future. To address this lack of clarity it was felt that subsequent legislation to establish the reformed service must be accompanied by comprehensive policies and procedures to guide implementation, with cross-sector, multi-disciplinary training provided to support effective implementation of these key elements. It was suggested that work in relation to the development of standards, regulations, guidance and training should be undertaken in tandem with the development of new legislation and that timely consultation and support will be necessary throughout the implementation process.
- 9.7 Respondents also emphasised that guidance will need to be clear, particularly on permanence and placement orders and indicated that success should be evaluated in 3-5 years time.

'Adopting the Future' seeks to provide a high-level strategic focus for the future direction of adoption services. We fully recognise that there is a great deal of work ahead to refine the detail of our proposals in primary legislation, subordinate legislation and comprehensive guidance and training to underpin the implementation of our strategic vision. We will be engaging and consulting with stakeholders throughout this process to ensure that we get it right and ongoing monitoring will assess the extent to which the strategy achieves its objectives.

Consultation

- 9.8 Several organisations commented on the consultation process, particularly the timing and duration of the consultation. Respondents were concerned that the 8 week consultation period over the summer period had implications for the fullness of the consultation process. It was suggested that the Department had not weighed carefully either the interest

generated by the proposals or the difficulty of bringing people together to consider proposals over the summer and in doing may have complied with the letter of the law regarding consultation but not the spirit.

- 9.9 One respondent also stressed the importance of ensuring that children and young people are actively involved in the consultation process and that a child-friendly version of the document should be produced. Another advocated that the document should make clear its availability in a range of accessible formats and that contact details in this consultation document should include a textphone number to enable deaf people the same access as those who are hearing.
- 9.10 One individual was disappointed at the format of the consultation form which only allowed further comment if one disagreed with a proposal. The individual feared that this might mean that their arguments hold greater weight than those who welcome these proposals.

The consultation on 'Adopting the Future' built on a process of stakeholder engagement undertaken since the beginning of the adoption review. This included a series of workshops in which key stakeholders across adoption participated. Whilst we regret the timing of the consultation and the other concerns noted above, we will endeavour to apply the lessons learned in forthcoming consultations as the policy, legislation and guidance are developed further. Fortunately, most respondents who used the response document also added comments where they agreed with proposals and these have been taken into account in our policy considerations.

Adoption Allowances

- 9.11 An HSS Trust suggested that given the backgrounds of children in adoption, there was a need to review the system of adoption allowances to consider whether a financial assessment is necessary or if all carers receive the allowance. It was highlighted that this was something the Department undertook to look at in Adopting Best Care Recommendations.

The arrangements for the payment of adoption allowances are primarily the responsibility of adoption agencies. The Department understands that the matter has been considered as part of the development of the Regional Adoption Policy and Procedures and that a consistent approach is now being taken across all HSS Trusts. Financial support will also be addressed as part of the new regulatory framework.

Advocacy

- 9.12 One organisation proposed the implementation of long term advocacy provision for children to help and support them through all care and adoption proceedings and with post adoptive contact. The organisation emphasised that advocacy support in post adoptive contact should also be made available to siblings of the adopted child.

Ministers have recently committed significant funding to develop advocacy provision for looked after children under the Children and Young People funding package. We will monitor the effectiveness of these services and will consider the scope to expand provision as part of the review process. However, once a child is adopted he becomes part of a new family and the Department considers that it is important to distinguish that new relationship from any former status as a looked after child and enable the child to experience the normality of a family life.

Courts

- 9.13 Further suggestions were outlined in relation to the courts. They contained the following recommendations:

- all adoption applications, other than inter-country applications, should commence in the county court and for application to be made for the county court judge to transfer cases to the High Court on grounds similar to the grounds for transfer of applications under the Children (NI) Order 1995 provided for in article 10 of The Children (Allocation of Proceedings) Order 1996 as interpreted by Gillen J in In the matter of T, C, P, M and B (The Children (Allocation of Proceedings) Order 1996 [21 May 2003];
- all inter-country adoption applications should commence in the High Court;
- Care Centre Judges should be able to hear adoption cases regardless of County Court Division. (At present Care Centre Judges can only hear adoptions that occur within their own County Court Division);and
- At present the Trusts decide whether an adoption should be heard in the High Court or Care Centre. When the care proceedings have been heard either in the Family Proceedings Court or Care Centre, the proceedings for adoption should be issued in the Care Centre.

The Department recognises that the existing legislation governing adoption was implemented before the introduction of the Family Proceedings framework under the Children (NI) Order 1995. We will work with colleagues in the Court Service to address these issues and ensure that adoption proceedings are dealt with by the appropriate courts.

Delay

- 9.14 Two organisations commented further on the issue of delay. One organisation highlighted the issue of avoidable delay and recent evidence of the irreversible damage caused to young children by multiple placements/placement uncertainty. With particular reference to Key Action 3 and the increased understanding of the timescales necessary to mitigate as far as possible against early adverse trauma in young children, it was emphasised that the introduction of any timescales must be based on children's timelines. Another organisation suggested that a "no delay" principle should be embedded within the legislation.

'Adopting the Future' highlights the damaging effects of delay and proposes a number of measures, including statutory timescales and a legal principle that delay is likely to prejudice the child's welfare, aimed at tackling unnecessary delay. We recognise that children's timescales are significantly different to those of adults and what can seem a relatively short period in adulthood can represent a considerable proportion of child's whole life. Crucially, we know that irreversible damage can be suffered by children when circumstances are permitted to drift and we fully intend that guidance will make this explicit.

Detail

- 9.15 One respondent welcomed the commitment to key action areas but was concerned that the specific actions within these areas were not in all instances comprehensive enough to deliver fully on them. Where key action areas identified specific actions to be taken forward, it was emphasised that these should be set alongside appropriate timescales for implementation and indicators should be developed to enable monitoring of progress toward set targets and ultimate outcomes.

The Department accepts that timescales for implementation would be useful and will endeavour to include same in the strategy. Some of the timescales, however, may be dependant on the status of devolution and may therefore be subject to change.

Foreign Nationals

- 9.16 Taking cognisance of Section 75, one group noted that it is imperative that foreign nationals who have moved to live in this country are not disadvantaged in the development of the strategy. It was emphasised that it is incumbent upon us to ensure that they have the opportunity to enjoy the same rights as other citizens of Northern Ireland.

The Department has screened and assessed the equality impact of the strategy on persons of different racial origin, including children adopted from abroad, and has suggested measures to alleviate any assessed adverse impact. Whilst we expect that agencies will continue to respect the rights of foreign nationals, we recognise that the availability of some adoption services may be dependent on the immigration status of service-users, which is a matter which is the responsibility of the Home Office

Looked After Children

- 9.17 Whilst recognising adoption as an option for some looked after children, several respondents also considered there was also a need to improve family support and other services for looked after children, including family group conferencing, short- and medium-term fostering to meet the needs of children temporarily deprived of their family, and residential care to deliver an overall improvement in outcomes for children in public care.
- 9.18 One organisation advocated that the DHSSPS develop and implement a robust Families and Parenting Strategy and Action Plan that can provide the vital support which families require to enable them to protect and promote the best interests of their children. The organisation highlighted the work of the Mental Health and Learning Disability Review and its Equal Lives Report on Learning Disability to emphasise that support is vitally important for vulnerable and marginalised families including those within and across the nine section 75 equality groups and particularly for families with parents/children with a disability, to help children stay out of care.

The Department is undertaking a number of initiatives to enhance care provision and the care experience for looked after children and information is available elsewhere on these initiatives. We consider that the focus of the strategy should rightly remain on promoting permanence and the use of adoption for children who cannot live at home.

Parents' Rights

- 9.19 One response considered that adoption must remain an option for those who are in long-term care. However, it cautioned that new legislation must facilitate the child without diluting the rights of parents, that the issue is complex and needs to be drafted with care.
- 9.20 Another individual questioned how much weight will be given to the views of birth parents in the adoption process. Specifically, the individual sought clarity on what weight would be given to a parent who objected to their child being placed in a homosexual relationship.

The rights and views of parents are very important in the adoption process and the Department is committed to ensuring that these are protected so far as they do not interfere with the rights of others. We are eager to ensure an appropriate balance between the rights of everyone involved in adoption but our fundamental concern, and that of adoption agencies and courts, must always be the paramountcy of the welfare of the child and the child's right to a stable family life.

Permanence

- 9.21 One individual also questioned the compatibility of the aim of permanence in the strategy with the proposal to permit joint adoption by civil partners and unmarried couples. It was noted that statistics demonstrate that unmarried couples are more likely to break up after the birth of a child and suggested that concessions to modern values and current trends in adoption practice run counter to securing permanence and the best interests of the child.

As outlined elsewhere, for any person to become an adoptive parent, they would need to prove not only that they can provide a loving family environment, but that their own relationship is sound and able to cope with the challenges of adoption. The stability of any relationship will be tested throughout the assessment process to ensure that only suitable people are approved to adopt.

Placement Stability

- 9.22 Two organisations commented further on the approach to placement stability. One conveyed concerns at the focus on dual approval in the strategy, arguing that not all prospective adopters see dual approval as an option they wish to pursue. It was emphasised that it should be an option but not presented as the only option and it was recommended that publicity is raised on the meaning of dual approval. The respondent considered that dual approval should be presented as a best option for children and not as a potential cost saving exercise.
- 9.23 Commenting on the detrimental effects of multiple placements on children and young people, another organisation considered that it is vital that measures to reduce this potential are adopted and strengthened. It suggested that consideration could be given to the development of 'consecutive planning' (or parallel planning) schemes whereby foster carers are actively recruited who are willing to take on placements on a fostering basis that will move to adoption in the future if and when required. Such placements would be targeted at those cases where it is deemed unlikely that the child or young person will return to birth family care on a permanent basis and would require a high level of specialist

training and support to enable carers, families and children to cope with uncertainties.

The Department is aware that there is some misunderstanding around the concepts of concurrent/parallel planning and dual approval and will ensure that guidance and training promote and clarify the benefits of these practices. We appreciate that dual approval can be difficult and may not suit all prospective adopters. Ultimately, it will always be for prospective adopters to make that choice. We consider that they must be advised of all of the options and routes to adoption and most importantly of the profile of children needing adoption and their need for stability. We know, from local experience, that dual approval can be successfully promoted and implemented and we will ensure that lessons from practice are disseminated across the region.

Recruitment

9.24 Respondents also commented on the challenges in relation to the recruitment of suitable potential carers. It was highlighted that there remains a significant level of ignorance in relation to the children available for adoption, with most people still wishing to adopt a baby placed with consent. Respondents suggested that, in particular, encouragement should be given to adopt older children and children with special needs. It was considered that there is also a need to improve publicity on who can adopt as too often it is seen as an option for the childless and for people who are from certain social backgrounds. It was suggested that measures such as:

- the development of a coordinated regional strategy for the recruitment of potential foster carers and adoptive carers to meet the needs of children and young people across Northern Ireland; and
- the development of co-ordinated regional recruitment campaigns to raise the profile of fostering and adoption across Northern Ireland. might go further to address the problem. Such campaigns would employ multi-media techniques to reach as many people as possible and be sustained over time in order to ensure that the public respond.

The Department appreciates the need for a coherent, continuous focus on raising the profile of the children needing adoption and recruiting suitable carers. We believe this can best be achieved on a regional basis and hope to achieve a greater profile for adoption and of the children needing adoption today. This was a key consideration in the Department's decision to support the establishment of a BAAF presence in Northern Ireland and we anticipate that regional co-ordination of recruitment, as envisaged at Key Action 16, will provide a much greater focus for this work.

Reference Group

- 9.25 Two respondents suggested the need for a reference group of appropriate agencies to take the strategy forward.

The Department fully accepts this suggestion. Much of the detail of the proposals has yet to be agreed and we would value the expertise of stakeholders in progressing the policy. We will therefore invite stakeholders to establish a reference group to inform the implementation of the strategy.

Regionalisation

- 9.26 Another organisation stressed its concerns about the proposal to regionalise aspects of the adoption service. Whilst accepting the rationale for regionalising intercountry adoption and aspects of domestic adoption, such as recruitment and training. It emphasised that many future adopters are likely to emerge from the fostering systems, and be involved with older looked after children. It considered it important that local support from, and relationships with, social work staff who work with the children are maintained and built upon and that this would be weakened by placing all adoption work in the hands of a regional specialist team.

The Department absolutely accepts the importance of maintaining the presence of adoption services at a local level and the need to keep a focus on adoption within local childcare teams. We consider that the continued presence of locally-based adoption workers established as part of child care teams within HSS Trusts will ensure that this focus is maintained and that specialist expertise is shared.

Religion

- 9.27 Concerns were also emphasised about the proposal to remove the provision which allows birth parents to consent to adoption on condition that the child is brought up in a particular religious persuasion. Given that many future adoptions will be of older children, one organisation had concerns that preserving children's links with their birth families will be undermined by the proposal. It felt it conflicts with the Children Order under which the religious, cultural and ethnic background of looked after children are protected.

We would again emphasise that the only proposal in relation to religion is the proposal to remove the ability of parents to consent, subject to the child being brought up in a particular religion. As outlined earlier, we do not think this is consistent with the paramountcy principle but the Department does recognise the importance of maintaining a child's cultural and religious identity and legislation

will maintain agencies' existing duties with regard to ascertaining the views of both parents and children on these matters. We will expect agencies to continue to recruit prospective adopters from a wide range of backgrounds who are able to meet the religious and cultural needs of the children needing adoption.

Special Guardianship

- 9.28 Whilst welcoming the introduction of special guardianship, one organisation expressed concerns that Trusts may opt for this approach rather than pursuing Adoption. It considered that potential delays within the court processes may influence decisions about the most expedient rather than the most appropriate method to secure permanency for looked after children.

The Department would reiterate that agencies will still be required to act in the best interests of children. Where they consider adoption to be in the best interests of a child, they will be under a duty to progress adoption; settling for lesser forms of permanence for expediency, under the current arrangements or any other circumstances, is unacceptable. Guardians ad Litem will therefore continue to be involved in proceedings involving the termination of a Trust's parental responsibility.

Support

- 9.29 Respondents also emphasised the importance of support in adoption and welcomed the strategy's commitment to improve support provision. One organisation highlighted the role of clergy and church officials in supporting people through this process.

The Department recognises that it is important that people involved in adoption receive support from within their own networks as well as from voluntary support agencies and statutory services

Timing

- 9.30 Two respondents commented that the review is "long overdue". One individual added that government should commit as quickly as possible to the shortest possible timetable for the introduction of the changes proposed in this document as they are urgently required.

The Department recognises that the need for change in the adoption service is now pressing and is therefore committed to implementing the strategy as soon as possible. This is, however, a unique opportunity to make radical changes in a service which will have a direct impact on the lives of many children and families. It is therefore imperative that we take an appropriate amount of time in ensuring we get it right.

Training

- 9.31 One respondent emphasised that it would be important to agree a regional training strategy to support new practice, bearing in mind the consequences of children having to suffer delay.

The Department recognises that skills and training must be enhanced to ensure that practitioners have the competencies needed to work in this complex area of childcare, and to promote the development of expertise in adoption issues. This will be progressed as part of Key Action 18.

UK Influence

- 9.32 One individual noted a continuing heavy reliance on the English legislation, but considered that this appears to be appropriate at this time, as the issues that need to be addressed are largely similar. Remarking on the strategy's statement that elements of the current legislation do not reflect contemporary society, one organisation questioned whether this referred to contemporary society in Great Britain or Northern Ireland.
- 9.33 Another organisation questioned whether cognisance had been taken of proposed changes in Scottish legislation.

The Department considers that it is essential that adoption policy is developed to take account of, and learn from, developments in adoption practice and law in the rest of the UK, the Republic of Ireland and internationally. We have considered the adoption frameworks in many jurisdictions and have developed proposals based only on what we think best meets the needs of our own unique local circumstances.

Voluntary Sector

- 9.34 One voluntary organisation added that it was very pleased to see emphasis on working with voluntary adoption agencies and the plan to reduce the number of different agencies in NI.

10 Human Rights

- 10.1 'Adopting the Future' highlights the increasing significance of human rights in adoption practice. It emphasises how recent legal judgements, judicial reviews and court of appeal decisions about care orders, freeing and adoption have challenged the extent to which rights under the ECHR and UNCRC are formally considered in decision-making. It suggests that this relatively recent phenomenon may be having the effect of further lengthening the judicial process. The strategy reflects the concerns of some adoption practitioners that the focus on the welfare of the child could be diminished as the courts give increased consideration to the human rights of others involved in the adoption process, particularly birth parents.
- 10.2 The strategy seeks to reflect an appropriate balance of the often opposed interests of the parties in adoption, with a primary focus on the welfare of the child. This is reflected in several of the Key Actions. In line with our obligations to promote human rights, the consultation asked:

Do you think that the document promotes human rights?

Response	Number of Respondents
Yes	18
Response Document Not Used/Not Expressly Indicated on Response Document	4
No	2
Total	24

Are there any aspects where potential violations may occur?

Response	Number of Respondents
Yes	9
Unsure/Don't know	2
Response Document Not Used/Not Expressly Indicated on Response Document	2
No	5
Total	18

- 10.3 75% of respondents who commented on the human rights implications of the strategy expressly stated that it does promote human rights. However, at least 50% of respondents identified potential violations.
- 10.4 Three respondents considered that the proposals are more inclusive and endeavour to reflect societal changes. Whilst acknowledging this, an HSS Trust stressed that the focus on the child, however must remain

- paramount. This was echoed by an HSS Board which emphasised that it is important that the needs of children are central to the shaping of adoption legislation, not simply responding to societal changes.
- 10.5 Several organisations recognised the competing rights of parties in adoption and welcomed the focus on the child's rights. It was suggested that with such far-reaching and life-long implications for individual's human rights, it is inevitable that conflicts will occur but that the strategy balances these rights as far as possible while giving priority to the human rights of the child. Respondents stressed that legislation and guidance must reinforce that the child's rights override all others in adoption and that therefore it may appropriate to violate the parents human rights where there is a legitimate reason to do so.
- 10.6 However, two organisations also stressed that the rights of parents should still be considered. Acknowledging the damaging effects of delay, it was emphasised that the requirements of expediency should not automatically override consideration of the rights of others – particularly of birth parents – in adoption proceedings. One respondent stressed that Individual circumstances have to be examined on a case by case basis, with due consideration of and their review in relation to human rights obligations which include, as a primary consideration, the principle of the best interests of the child.
- 10.7 Several organisations referred to the audit of the Adoption (NI) Order 1987 commissioned by DHSSPS and the United Nations Convention on the Rights of the Child, suggesting that both should be implemented into future adoption law in Northern Ireland. One organisation was concerned that with the process of reform and development approaching an advanced stage, the Department has not yet decided whether it will accept or reject the conclusions of the research and urged it to do so. It was also suggested that the Department should ensure that the obligations arising under the CRC are complied with to the same degree as the Human Rights Act 1998 for the purposes of adoption law, and that relevant authorities be obliged to act in a manner compliant with the UN Convention.
- 10.8 One organisation submitted a particularly extensive response on the implications of human rights for the strategy and adoption generally. It highlighted the relevant articles of both the UNCRC and the ECHR (as incorporated in the Human Rights Act 1998):
- Article 3, UNCRC: Paramountcy
 - Article 9, UNCRC: Child's right to live with parents unless contrary to their best interests. Right to contact if separated fro parents.
 - Article 12, UNCRC: Right of the child to be heard.
 - Article 21 UNCRC: Adoption should only be carried out in the best interests of the child.

- 10.9 The organisation commented on the significant impact on family life adoption represents and the consequential implications for process and decision-making. It highlighted that the United Kingdom is one of a very small number of countries in Europe which allow for the total legal severance of family ties without parental consent and that it necessarily involves an interference with right to family life. However, it also outlined that the European Court has consistently shown that if the adoption can be shown to be for the purposes of protecting the child's best interests, is proportional and procedurally fair, then the interference will be justified.
- 10.10 It also remarked on the complexity of trying to provide for an effective balance of rights and, in accordance with the views outlined above, asserted the paramountcy principle as the over-arching standard by which decision-makers should be guided. It highlights also the cases of GHB v UK and Pini and Others v Romania illustrating the increasing importance attached by courts to the child's views.
- 10.12 The response also discussed the complex interface between human rights and the consideration of contact arrangements in adoption, highlighting a number of cases which demonstrate the necessity for a careful consideration of the rights of the child as well as the rights of others to a family life.
- 10.13 Whilst acknowledging the concerns of practitioners, another organisation emphasised that the influence of human rights ought to be portrayed as a more positive development, rather than simply as threatening the expedition of the proceedings.

Potential Violations

- 10.14 Respondents identified a number of potential human rights violations within the strategy. One individual considered that whilst the document promotes human rights as a whole, the proposal to extend joint adoption to civil partners and unmarried couples impacts on the rights of the child as outlined in the UNCRC. It was suggested that:
- Articles 8.1 (identity) and 20.3 (continuity of upbringing and ethnic/religious/cultural//linguistic background) may be infringed as such a placement may not reflect what the child may have been born into.
 - The spirit of Articles 12 (express views and be heard), 13 (freedom of expression), 14 (freedom of thought/conscience/religion), 37 (torture, cruel/inhuman/degrading treatment) may be undermined as most children would not want to be brought up in such environments and are unable to express their opinions intelligently.

- The “stigma” associated with being brought-up in such an environment may represent a form of mental abuse, thus invoking articles 19.1 (protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse), 34 (sexual exploitation and abuse).
 - Article 21 (adoption shall ensure that the best interests of the child shall be the paramount consideration) is infringed.
 - Contrary to Article 24, the child’s mental health is endangered by the proposal
 - The right of every child to a standard of living adequate for the child’s physical, mental, spiritual, moral and social development, as stated in Article 27, is not provided by the proposal
- 10.15 One organisation advised that when placing the child’s interest first, we should also be cognisant of the cultural, faith and ethnic background of children and young people when matching, and promoting contact and that article 6 of the ECHR (fair trial) may be infringed by a Panel decision-making process. Another organisation had similar concerns about the faith implications of adoption and the ability of very young children and parents to effect their rights in this regard.
- 10.16 Two HSS Boards considered that delays in legal process could infringe rights and particularly, that Article 8 may be infringed for children if delays in relation to adoption prejudice their right to family life. Both organisations also considered that the Independent Review Mechanism needs to be more fully explored.
- 10.17 Four respondents commented on the implications of the proposals to introduce upper age restrictions. Two HSS Trusts commented on the difference from the rest of the UK. An HSS Board considered that Article 8 may be infringed by the proposed upper age limit and another group suggested that there may be different views in intercountry adoption with regard to the age of prospective adopters.
- 10.18 Another respondent considered that although the consultation document refers specifically to the individuals directly involved in the adoption process, and the rights of the child at the centre of the process, some consideration must also be given to the rights of siblings, particularly when making decisions on post adoptive contact.
- 10.19 One organisation further encouraged the Department to look at what systematic solutions can be introduced that place human rights standards at the centre of the whole adoption process and limit the need for contested proceedings. It suggested:

- periodic review of cases where alleged human rights violations occurred, and review of guidelines and practice in light of outcomes of such cases;
 - options for placements other than adoption;
 - counselling and pre-adoption support for birth parents;
 - a requirement for timescales to be agreed for adoption proceedings;
 - arrangements for contact, etc; and
 - human rights training for the professionals involved at all stages of the process
- 10.20 In this context, the organisation welcomed the undertaking by the Department that training on the new policy and legislation will be made available to all professionals involved in the adoption processes. It recommended inclusion in the training programs and guidelines of comprehensive material addressing human rights standards, stemming in particular from the UN Convention on the Rights of the Child and the Human Rights Act 1998.

Conclusions

The Department considers the emphasis on the UNCRC and on human rights to be a positive influencing factor and is committed to ensuring that legislation, guidance, training and ultimately practice and decision-making takes cognisance of, and promotes, the rights of everyone affected by adoption. We recognise that in this field it can be particularly difficult as the rights of individuals are often in conflict with one another and invariably some of the decisions and actions of agencies and courts interfere with one person's rights in order to protect those of another. Ultimately, what we want to ensure is a culture where the human rights of all parties are considered at every stage in adoption and that all decisions attempt to strike an appropriate balance between those rights, guided always by the welfare of the child.

There are clearly different views on how best to achieve this. The Department will keep under review the application of human rights in the ongoing implementation of the strategy and in adoption practice to ensure that the service is as compliant as it can be, whilst maintaining the paramountcy of the welfare of the child as our central concern.

The Department does not consider that the proposal to extend joint adoption to civil partners and unmarried couples (same sex or otherwise) represents any interference with a child's human rights. On the contrary, we consider that the proposal enhances the opportunities for children to effect their article 8 rights to a family life. Children may already be placed with such families but will only have one legal parent; this proposal will enable them to benefit from having two. Where it is possible to do so, agencies and courts will be required, as they are in any situation, to ascertain the child's wishes and feelings and to have regard to

them. As with any prospective adopter, carers will have been assessed as suitable to adopt that child and agencies will only ever act in what they consider to be the child's best interests. We are therefore confident that this proposal promotes rather than inhibits children's rights.

As outlined elsewhere, the Department is concerned that cultural and religious sensitivities should be considered and, wherever possible, accommodated in adoption. The department will ensure that legislation will continue to require agencies to ascertain the views of both parents and children and to have regard to them. However, in accordance with international standards on human rights and the UNCRC, the child's welfare must ultimately be their paramount consideration.

In relation to the proposed upper age restrictions, the Department would emphasise that the measure does not represent a blanket ban on all people aged 50+ adopting. Furthermore, adoption is primarily a service for children and there is therefore no 'right' to adopt. We consider that this is a justified and proportionate measure, necessary to protect babies and young infants from unsuitable placements with people to whom, in the normal course of conception, they could not have been born. The measure is also intended to give effect to our international obligations to ensure that the same high standards that operate in domestic adoption apply equally to ICA.

11 Equality

- 11.1 In accordance with its obligations under Section 75 of the Northern Ireland Act 1998, the Department conducted screening and drafted a preliminary Equality Impact Assessment on the proposals outlined in ‘Adopting the Future’ for possible adverse impacts on equality of opportunity or good relations. The draft Equality Impact Assessment was included in the documentation issued for consultation and views were sought on our assessment of the equality implications of the strategy - particularly impacts not already identified.

Are the different needs of the different Section 75 groups of people adequately addressed by the proposals?

Response	Number of Responses
Yes	15
Response Document Not Used/Not Expressly Indicated on Response Document	2
No	4
Total	21

- 11.2 71% of respondents who commented on the equality implications of the strategy considered that the needs of S75 groups had been met by the proposals. Two organisations commented on the inclusivity of the proposals, considering that the strategy attempts to include all sections of the community and goes a long way to address the existing adverse impact on equality of opportunity.

Age

- 11.3 Three respondents referred to a differential in respect of age. Two considered that the proposed restrictions could be “regarded as blatantly age discriminatory practice” and “clear inequality of opportunity”. Both organisations also referred to the introduction of age discrimination legislation and the potential challenge the proposals might face. They considered that cases must be judged on their own merit as an upper age limit should not preclude a fit and healthy older person from adopting where this is in the best interests of the child.
- 11.4 One organisation also expressed concerns about the proposal to retain a minimum age limit of 18 for access to some kinds of information. While the organisation agreed that some information in relation to adoption may be sensitive, it does not believe that a fixed age limit is appropriate in all circumstances considering many children mature enough to have access to information about their own adoption much younger than at the age of

18. The organisation did not consider that a blanket age limit could be justified in this instance and believed that access to information should be decided on a case by case basis determined by the principle of what is in the child's best interests. It was suggested that in determining what is in the best interest of the child, the child must be given an opportunity to participate in the decision and have his/her views known and taken into account as per articles 12 and 9(2) of the UNCRC.

Children

- 11.5 Two organisations referred to the potential impacts on children. One organisation emphasised the fact that children and young people are not a homogenous group and have multiple identities which should afford them extra protection under section 75. Two responses also stressed the need to consult with children and young people to ensure that they enjoy equality of access to, and benefit from, appropriate services that meet their needs. One highlighted that in line with Article 12 of the UNCRC, States must assure that any child capable of forming a view has the right to express views freely in all matters affecting him or her and that the child's views are given due weight in accordance with age and maturity. Therefore young children should not be excluded from the consultation process on the basis of their age.
- 11.6 The equality implications for children who are not adopted and remain in care were also highlighted. One respondent noted that children adopted from care do better than those raised in foster or residential care ("Children's Rights in Northern Ireland" 2004, NICCY). It was suggested that further research and assessment is required on age to ensure that older children are not further disadvantaged by the new proposals outlined in the consultation document. The respondent considered it shocking to note that while this is acknowledged, it is also accepted that there may be cases where this may be the preferred option for a particular child. It strongly urged the Department to address the failings of the care system as a matter of urgent concern, one element being a comprehensive equality impact assessment in order to begin to address what the organisation to be the massive disparities in equality of opportunity suffered by looked after children.

Religion/Race/Gender

- 11.7 It was also suggested that there may also be issues around religion, race and possibly gender which need to be examined to ensure that no particular group of children and young people will suffer adverse impacts as a result of the proposals. One organisation contended that these issues have not been considered in any detail in the equality impact assessment, with most conclusions being that there will be no adverse impact, even

where it is acknowledged that adoption may be contrary to some children's religious beliefs. It was concerned that the correct degree of consideration may not have been given to the equality impact assessment in this case and we wish to see a much more comprehensive and thorough equality impact assessment being carried out.

Sexual Orientation

- 11.8 Within the equality section on the response document, one organisation welcomed the extension of the adoption proposals to include non-married persons and same sex couples, considering it a long overdue development that certainly promotes equality of opportunity on the grounds of sexual orientation and marital status. However, two organisations referred to the "qualification" of the inclusion of non-married persons and same sex couples in the equality impact assessment in that the document states that these groups will have to be approved to adopt. It was suggested that these are the only two categories where the Department has felt it necessary to state that there is no right to adopt and all applicants will have to be approved to adopt by adoption agencies. While acknowledging that this is the case for all prospective adopters, respondents were concerned that stating this qualification in relation to non-married persons and single sex couples only may undermine the Department's commitment to these groups of people and feel that either all or none of the nine categories should be subject to the same qualification.

Disability

- 11.9 Respondents also argued that given that looked after children have higher rates of physical, emotional and developmental illness when compared to the child population in general (and approximately two thirds of children and young people in state care suffer from mental health problems), disability is one of the categories which must be assessed to ensure that the new proposals will have a positive impact on adopted and looked after children and young people with disabilities.
- 11.10 One organisation considered that the disability section should have discussed the problem of mental health in more detail. The organisation referred to the statement that 'a high percentage of looked after children have an identifiable mental health problem' and argued that there must be data to support this assertion. Similarly, the organisation highlighted the difficulties for service-users in obtaining specialist services eg. Child and Adolescent Mental Health Services, but stated that the document provides no data about the number of requests for support and no information about the current provision and the likelihood of improvement. The organisation concluded that it is important that the Department collects

and publishes baseline data, benchmarks and indicators in order to show that it is planning proactively to improve their right to health.

Lack of Information

- 11.11 The need for more information was echoed by a further two organisations. Both organisations referred to the recommendations and guidelines of the UNCRC Committee requiring the establishment of a system to collect disaggregated data on children for all areas covered by the Convention (which specifically includes adopted children) to enable the identification of discrimination and/or disparities in the realisation of rights. It was suggested that it is insufficient to state, at this stage in the operation of section 75 and the UNCRC, that information is unavailable. It was stressed that it is imperative that such data is collated as a matter of urgency to ensure that the proposed changes to the adoption system in Northern Ireland have a positive impact on the promotion of equality of opportunity and where this is not the case, it is easily identifiable and remedial action can be taken immediately.
- 11.12 One organisation also made reference to a Committee recommendation that the Government monitor a number of groups of children who are exposed to discrimination and the comparative enjoyment by children of their rights across the UK, highlighting data collection as central to this monitoring.

Are you aware of any evidence not already identified, either qualitative or quantitative, that the proposals may have an adverse impact on equality of opportunity or on good relations?

Response	Number of Responses
Yes	5
Not expressly Indicated	2
No	14
Total	21

If you feel the adverse impacts cannot be alleviated within the proposals outlined, please suggest alternatives that could be considered to reduce the adverse impact.

- 11.13 Only two respondents suggested alternatives. One organisation suggested that to meet its statutory obligations, the Department must consult with representative organisations and affected individuals when developing the support provision.
- 11.14 Another considered that the adverse impact resulting from an upper age limit, and the implicit suggestion that the caveats built around this, creates

a two tier system in that children with special needs will potentially be treated differently.

Could the proposals better promote equality of opportunity or good relations?

Response	Number of Responses
Yes	3
Don't Know	1
Not expressly Indicated	1
No	10
Total	15

- 11.15 Again, only two respondents provided comments on this section. One individual considered that there could be a clearer commitment to equality stated directly in relation to sexual orientation of adoptive parents. An HSS Board suggested that age should be dealt with within policy and procedures.

Are you aware of any other equality implications, not already identified, that are likely to arise from the proposals?

Response	Number of Responses
Yes	4
Not expressly Indicated	1
No	10
Total	15

- 11.16 Two HSS Boards suggested that the impact on 'religious belief' needs to better address cultural aspects, which have a religious foundation.
- 11.17 One individual, welcoming the initiative to include same sex couples as adoptive parents, suggested that some lesbian parent families may take a slightly different form from the traditional nuclear family, involving three or even four parents equally committed to a child from birth – for example a lesbian couple parenting with a gay male couple. The respondent considered that the legislation should therefore allow for the possibility of equal recognition of more than two parents.
- 11.18 The same respondent also thought that it is important that more support be given to single people adopting, who the respondent considered often seem to be given less priority than couples.

Conclusions

The Department accepts that in attempting to assess the equality implications of any policy, we must recognise that within different groupings, people are not homogenous; their needs, wishes, views and circumstances may vary enormously. Because of these very considerations, there are very few aspects of adoption policy where we believe age restrictions are appropriate. We recognise that it is difficult to justify seemingly arbitrary age requirements, especially in relation to children who may be mature enough to cope with and take decisions. Legislation will therefore continue to require adoption agencies and courts to consider children's views and welfare, in all matters, in light of their age and understanding. The Department intends that adoptees will be able to seek access to information before they turn 18, and it will be a judgement call for agencies, supported by Guidance, as to whether it is in their best interests to disclose it. However, when they turn 18, adoptees will have access to certain information as of right, as a reflection of their legal status as an adult.

We also accept that outcomes for many looked after children are poorer than the general population. This is partially attributable to the range of difficulties which children often experience prior to entry to care and we believe that children should be provided with every opportunity, when they are looked after, to fulfill their potential. We have identified that adoption is not suitable for most children in care and the Department has undertaken a range of initiatives and investment targeted at improving outcomes for looked after children in recent years. In 2007, we will be consulting on how we can do better. 'Adopting the Future', however, seeks to focus on promoting permanence and the use of adoption for that narrow group of looked after children who are unlikely to be able to return home. We anticipate that raising the profile of the children needing adoption and the provision of greater support will enable a wide spectrum of children and young people to benefit from adoption. Where adoption is not in the best interests of a child who cannot return home, we have proposed a new alternative so those young people are also able to enjoy a permanent family life. We will, however, monitor the operation of permanence options for looked after children to ensure older young people are not disadvantaged. We will also liaise with relevant stakeholders to identify how the Equality Impact Assessment could better consider religious, racial and gender impacts.

The Department does not wish to impose restrictions which will limit the opportunities for children to find permanent families and so the proposed upper age restrictions will not apply in a number of situations where it may be in a child's best interests to be adopted by older people. The Department is concerned, however, that subjective judgements on the suitability of older applicants to meet the needs of babies and young infants throughout their childhood and beyond may result in inconsistencies in practice, particularly between intercountry and domestic adoption, and therefore considers the measures will protect rather than disadvantage children.

In highlighting that the proposal to extend joint adoption to civil partners and unmarried couples would still require couples to be assessed and approved, the Department sought to clarify that the measure would not represent a ‘right’ for these groups to adopt, just as there is no right for anyone to adopt. We will amend the EQIA to make this expressly clear.

The Department also agrees that there is a lack of data on many of the s75 groups who may be affected by adoption. The Department’s Community Information Branch published in 2006 the first data collection on adopted children and we will further consider this information as part of the EQIA. The need for better data to plan and deliver effective services is also a key consideration in the development of the database proposed at Key Action 7. We consider that the proposed database will provide much better information on how adoption services impact on s75 groups and we will keep the situation under review.

The potential for more than one person to have parental responsibility for a child was recognised and facilitated under the Children (NI) Order 1995. Whilst a child may have several significant adults in their lives, we consider it neither necessary nor desirable for a child to have more than two legal parents when avenues exist for others to obtain parental responsibility.

12 Next Steps

- 12.1 The Department will now take forward implementation of the strategy, amended in light of the points raised in response to the consultation. We will progress the necessary amendments to the strategy in order to publish a final version, outlining the resulting strategic direction and action plans for the future delivery of adoption services in Northern Ireland. In a parallel process, we will begin work to implement the Key Actions to be taken forward. The first priority, and perhaps most important of these, will be to develop new primary legislation to provide an effective framework within which the new service can operate. In consultation with the implementation group, we will also consider how best to take forward those recommendations which do not require legislative change.
- 12.2 Introducing changes to adoption services in Northern Ireland as envisaged in the consultation document will involve a huge change management process and additional resources. In addition to the primary legislation, which itself will need to be developed in consort with other Government Departments and Agencies both here and in GB, there will also be a significant amount of work in developing and implementing subordinate legislation, guidance, standards and training. We are conscious that the coming months and years will see great changes in the infrastructure of children's services in Northern Ireland. We want to ensure that stakeholders are as involved as possible in the development of this supporting framework and hope that people continue to give us the benefit of their views and experience as we take these matters forward.
- 12.3 We are embarking on what will be a long and challenging journey for everyone involved. We can be confident, however, that the result will be a much improved adoption service, fit for purpose in the 21st Century, that delivers permanence to the children and young people who need it most.

Appendix A

Breakdown of Responses

Category	Number	Breakdown
Individuals	1,005	
Petitions	9	8 Petitions, containing 545 signatories 1 Electronic Survey of 296 people
HPSS Organisations	10	Down Lisburn HSS Trust
		Down Lisburn HSS Trust – Nursing
		Eastern HSS Board
		Homefirst Community Trust
		North and West Belfast HSS Trust
		Northern HSS Board
		South and East Belfast HSS Trust
		Southern HSS Board
		Ulster Community and Hospitals HSS Trust
		Western HSS Board/Foyle HSS Trust/Sperrin Lakeland HSS Trust
Other Statutory Organisations	4	Ards Borough Council
		Northern Ireland Commissioner for Children and Young People (NICCY)
		Northern Ireland Human Rights Commission (NIHRC)
		Regulation, Quality and Improvement Authority (RQIA)
Voluntary Adoption Agencies	4	Church of Ireland Adoption Society
		Combined Response from Voluntary Adoption Agencies
		Family Care Society
		SSAFA
Voluntary Organisations	11	Adoption UK
		Age Concern
		Barnardo's
		British Association for Adoption and Fostering (BAAF)
		Children in Northern Ireland (CiNI)
		Children's Law Centre (CLC)
		Disability Action
		Fostering Network
		National Society for the Prevention of Cruelty to Children (NSPCC)
		Northern Ireland Council for Voluntary Action (NICVA)
		Voice of Young People in Care (VOYPIC)

Faith-based Organisations	25	Association of Baptist Churches in Ireland Buckna Presbyterian Church The Caleb Foundation The Christian Institute Coleraine Baptist Church Congregational Union of Ireland County Armagh Grand Orange Lodge Enniskillen Independent Methodist Church The Evangelical Alliance (NI) Fellowship of Independent Methodist Churches - Public Morals Committee Gortmeron Baptist Church Government & Morals Committee of the Free Presbyterian Church of Ulster Kilkeel Baptist Tabernacle Loughgall Presbyterian Church Mid-Ulster Christian Helpline Millisle Baptist Church Northwest Baptist Church Portadown Baptist Church Presbyterian Board of Social Witness (Family Services Committee) Presbyterian Church in Ireland – Presbytery of Templepatrick Public Morals Committee of the Evangelical Presbyterian Church Reformation Ireland Reformed Presbyterian Church of Ireland – Committee on Public Morals Saintfield Baptist Church South West London Evangelistic Mobile Unit
Political Parties	2	Alliance Party Democratic Unionist Party
Other	6	Adoption Forum Bar Council of Northern Ireland Discount Clearance Store Dykes with Babes Lesbian Mothers Group Looked After Children Special Interest Group Queerspace Collective
Total	1,076	

A number of responses were received after the closing date. These will not feature in the summary report but will be considered as part of the ongoing policy and legislation development.

Appendix B

Consultation & Analysis

- 1 ‘Adopting the Future’ was issued in July 2006 for an eight week public consultation period. Responses were due by 1st of September 2006 but following requests from a number of respondents, an extension of one week was granted in view of the fact that the consultation coincided with the summer holiday period.
- 2 There was a huge response to the consultation numbering 1076 in total. The vast majority of responses were from individuals and the remainder were provided by interested representative groups and organisations, including church organisations, political parties, statutory bodies, Health and Social Services (HSS) Boards and Trusts, and voluntary sector organisations. Some replies were also received in the form of petitions or electronic surveys organised by particular groups. A list of the organisations providing responses is available at Appendix A.
- 1.5 A response pro forma was included with the consultation document and was also available to download from the Departmental website, providing an opportunity for comment on each of the Key Action areas, human rights, equality issues and general comments. The majority of the organisations that responded did so using the pro forma, offering valuable views on many of the issues and proposals outlined in the strategy, as well as other related matters. The majority of individuals did not use the pro forma as most individuals were largely responding on a single issue, namely the proposal contained in Key Action 8, to extend joint adoption to civil partners and unmarried couples. These responses were received in the form of a letter.
- 1.6 Responses were received both by email and in hard copy. On occasions, certain individuals and organisations sent both. The responses were screened electronically to detect and discount duplicates in these circumstances. To avoid the potential for duplication, it was decided that anonymous responses would also be discounted.
- 1.7 Responses to the consultation exercise were provided by individuals and organisations of their own volition and each had their own particular motivation to take part. The exercise was not intended to gain views that were representative of the population in Northern Ireland, but was intended to give all those who wished to comment an opportunity to do so.
- 1.8 The views presented in this analysis have not been vetted in any way for factual accuracy. The opinions and comments submitted to the consultation may be based on fact or may be based on what respondents perceive to be accurate. Whilst we have decided not to refer to responses which use

potentially very offensive language, it is important for the analysis to represent views from all perspectives.