

Adoption and Children (Scotland) Act 2007

The Way Ahead

Friday, June 15th 2007

Discovery point – Dundee

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The way ahead - Adoption and Children (Scotland) Act 2007

**Conference at Discovery point – Dundee
Friday 15th June 2007**

The conference covered:

- Introduction
- Implementation of the Adoption and Children (Scotland) Act 2007-06-23
- Grounds for dispensing with consent
- Permanence Orders
- Adoption Support under the new Bill

Introduction

Sheriff Principal Sir Stephen S.T. Young is the Sheriff Principal of Grampian, Highlands and Islands. As sheriff he had dealt with a number of adoption and freeing proofs and adoption appeals. His work now is principally on appeals. He is totally supportive of the Children's Hearing System and has great respect for the panel members who make it possible. He was very open about the fact that when it was evident that a child should be removed from the birth family; support, guidance, assessments, respite, foster carers, rehabilitation attempts, all had to be tried and seen to be tried, before the bullet was bitten and the child permanently removed. Panel members may share his frustrations at these delays.

Implementation (Peter Willman, Scottish Executive)

The Adoption and Children (Scotland) Act 2007 is a complex Act, which will comprehensively modernise and extend the legal framework for adoption and permanency planning in Scotland. It covers adoption, permanency planning, adoption services, inter country adoption and some matters relating to fostering. It will repeal and replace the Adoption (Scotland) Act 1978 and there will be new regulations, court rules and guidance. Much of the existing 1978 Act will remain in the new Act. The Act extends adoption to unmarried couples and to unmarried step-parents. Previously a joint application could only be made by a married couple. The expected implementation date is the beginning of 2009.

Grounds for dispensing with consent (Kenneth Norrie)

The new grounds for dispensing with parental consent in Adoption were dissected by Kenneth Norrie in a very thought provoking talk where he discussed among other things:

- The finality of adoption
- The importance of timing – how long should a child wait in foster care for a parent to turn their life around?
- If the way to secure a child's welfare is to keep the child in foster care is it always necessary to destroy the mother/child relationship?
- The fact that research suggests that a lot of young people claim to need the tangible evidence of an adoption certificate in order to accept the permanency of their situation and move on. Kenneth Norrie suggested that stability and security comes not from a piece of paper but from the care, love and protection given to a child by its carers.

Kenneth Norrie broadly welcomed the introduction of Permanence Orders and the move towards more use of open adoptions.

Permanence Orders: (Margaret Ross – Aberdeen University)

The Act, introduces a new legal order – a Permanence Order – which will be available to secure the placement of accommodated children, some of whom may then go on to be adopted.

A Permanence Order may be applied for by Scottish Local Authorities. They are flexible Orders, which need to be individually planned for each child's needs.

Children subject to Permanence Orders will be looked after and it is expected that most supervision requirements will be terminated when the Permanence Order is made. Permanence Orders can last until a child is 18 or adopted.

The Permanence Order is a Court Order that will allocate parental responsibilities and rights in regard to a child potentially sharing these between different parties, the Local Authority and perhaps foster carers and where appropriate, members of the child's birth family.

A Permanence Order can also include authority for a child to be adopted.

Section 86 Parental Responsibilities Orders and Freeing for Adoption Orders will cease to exist but there will be transitional arrangements for existing Orders and Court applications.

Section 11 Parental rights and responsibilities Orders will continue to cover applications made by individuals such as grandparents, foster carers etc.

The Hearing System will continue to give advice to Court on Permanence Orders as they do at present for Freeing Orders.

A Supervision Requirement may be made when a Permanence Order exists.

A child of 12 or over must give consent for a Permanence Order to be made.

Adoption Support under the new Bill: (Barbara Hudson)

Barbara Hudson, Director for the British Association for Adoption and Fostering, focused on the children for whom the clock is ticking, if they are to have a childhood.

Moving a child from a dangerous situation is not the end of the concern. The actual process of being a 'looked after' child can continue to be problematic for the child and the carers. The child needs to be given a sense of belonging. 'Looked after' children come with their individual history, which may be a series of catastrophic events, which have left physical and emotional scars. This history does not go away on adoption as the past, present and future both co-exist and collide as the child works through the loss. The adoptive family and the child may need ongoing support that they have identified, not necessarily what the Local Authority has decided for them. Adoptive families need to know that asking for help does not mean that they have failed. Support should continue past adoption and theoretically be available if needed throughout their life.

Adoption support provision must be seen as an integral part of the legislation, relevant for all those involved and is the ultimate test of our commitment to Scotland's vulnerable children.

Workshop 1 (Mary Fawcett)

The workshop I attended was full of lawyers concerned at the length of time the adoption process takes at present, which is not felt to be in the best interests of the child. It was hoped that timescales would be clearly set out in the Court Rules to allow for the process to be speeded up.

Workshop 2 (Maryanne Booker)

The workshop I attended was predominately solicitors employed by Local Authorities and it was difficult for CHILDREN not to be lost in the discussion, which focused on the legal aspects of Parental Responsibilities Orders, freeing for adoption and how the legislation of the Adoption and Children (Scotland) Act 2007 would impact on practice and thinking. Most felt that at present, freeing a child for adoption in Scotland was a very long winded process, which sought to protect the prospective

adoptive parents from the birth family. Statutory decisions for the child are made and then a family found. The possibility of finding the right family first and THEN the relevant means to keep the child there, may be a better alternative.

Workshop 5 (Cherie Morgan)

In the workshop I attended, there was a discussion about how Local Authorities would use the new powers in regard to Permanence Orders. It was felt unlikely that Local Authorities would be happy to 'share out' rights and responsibilities with, foster carers for example, even long term carers, in case of things breaking down. It would put the carers in the position of parent and the Local Authority would again have to go to Court to make changes to the child's care.

I could not really see the huge change from the Parental Responsibilities Order – where the Local Authority can apply to get as many of the rights and responsibilities as they feel necessary. Both solicitors from the Local Authority that attended my workshop saw it as likely that the Local Authority would choose to apply for everything, to ensure the child's future care. The Local Authority would continue to be the child's legal parent.

The above is a personal account compiled on behalf of the SACP by Mary Fawcett.