

DRAFT LEGISLATIVE COMPETENCE ORDER (No. 3) VULNERABLE CHILDREN AND YOUNG PEOPLE

SUBMISSION TO THE LCO COMMITTEE FROM BRITISH ASSOCIATION FOR ADOPTION & FOSTERING BAAF (BAAF CYMRU)

[The Committee's questions and BAAF's substantive answers are set out in bold for easy reference]

1. Introduction

1.1 The British Association for Adoption & Fostering (BAAF) welcomes the priority being given to vulnerable children and young people by the National Assembly for Wales and supports the Assembly's proposal to create a legislative measure in respect of vulnerable children in Wales who are being looked after in foster care or who are being adopted.

BAAF is an independent, active, membership - based charity. BAAF believes that -

- Each child and young person has a right to loving and secure family relationships, a right to be heard and rights as a citizen
- Secure attachments to carers are essential to children and young people's mental health and psychological development
- Every effort should be made to enable children and young people to live in their own birth families and kinship network, providing this is consistent with the child or young person's welfare
- Where it is not in the best interests of children or young people to live within their family of origin, an alternative family should be found which can provide continuous care, stability and life-long commitment
- Children and young people have a right to have their needs, wishes and feelings understood, assessed and reviewed so that, where it is necessary for them to live away from home, their placements can be planned and their needs met
- Services for our target groups of children and young people should meet their emotional and developmental needs, including needs relating to their religion, ethnicity and cultural and linguistic background and any special needs.

1.2 It is evident that fostering and adoption agencies in Wales in both statutory and voluntary / independent sectors –

- Are staffed by practitioners and managers who are committed to safeguarding and promoting the well being of children and young people being looked after and adopted
- Successfully recruit and support dedicated foster carers, adoptive parents and other carers who provide a positive family environment for vulnerable children who have experienced adverse early years situations
- Offer excellent examples of good practice and innovation in service delivery for children who are separated from their birth families. These include examples of both corporate working and partnership working.

1.3 There is now a robust basis for further developing a legislative and policy framework relevant to Wales, drawing on the demonstrable professional and political will.

2. Questions relevant to the Committee's role

2.1 Would the terms of the proposed Order allow for the implementation of the policy agenda on vulnerable children and child poverty by means of Measures? If not, how would the proposed Order need to be re-drafted and why?

BAAF proposes that the Order should enable the policy agenda to incorporate a core set of entitlements / rights for children being fostered and adopted in Wales, in addition to the current welfare focus. This might be secured by incorporating a reference to the UN Convention on the Rights of the Child (UNCRC) in the definition of 'social welfare'.

The Assembly has demonstrated its commitment to establishing a rights-based agenda for children and young people – by its formal adoption in 2004 of the UNCRC and in its subsequent policy framework Rights to Action and Rights in Action, promoting the seven core aims of services for children and young people.

Arguably the Assembly's agenda has not been assisted by a predominantly welfare-based UK legislation. This is not to say that children's welfare is not of the utmost importance, but a welfare focus will not in itself empower young people and may not in itself provide an holistic framework for service delivery.

As an example of a welfare plus rights approach, the Adoption and Children (Scotland) Act 2007 includes these provisions –

- An order that ensures a child will have a permanent family throughout childhood that can apply to a variety of situations – growing up with friends or relatives or with foster carers or adoptive parents. A 'permanence order' (rather than solely a 'residence order' or a 'special guardianship order') gives children in a variety of situations a legal right to 'belong' to a particular family
- An adoption order may not be made in respect of a child aged 12 or over unless the child formally consents

BAAF believes that all children being looked after or adopted should have these claimable rights -

- A sense of permanence for every child, achieved by ensuring -
 - A consistent family of resource for every child, and / or
 - An inspirational adult for every childResearch and practice give clear messages that children who do not have a 'family of resource' whom they can claim throughout childhood and into adulthood are less secure in their own identities and their abilities to make and sustain family and social relationships. Ensuring that each child separated from their birth families has at least one 'inspirational' adult or a consistent family of resource as they grow into adulthood will not only help individual children but will also contribute to the Assembly's objectives of community cohesion and positive citizenship.
 - Life journey work as a process rather than an event
 - Local placements unless this is dangerous
 - Information about their origins and personal histories
- BAAF Cymru and its membership are particularly concerned with the current situation for children being adopted which does not give them a right to all available information about their birth families and the circumstances of their

adoption. Such rights are subject to consents of the adults concerned. BAAF's position is that such past events and family information 'belong' to the growing child and are integral to his or her ability to construct a positive identity and a coherent, understandable sense of personal history.

2.2 Are the terms of the proposed Order drafted appropriately, too narrowly or too broadly? If necessary how should the proposed Order be re-drafted and why?

BAAF recommends that the Order includes, in its 'interpretation' of this field, a definition of a 'vulnerable child'.

It is constructive for the Assembly to take a wide perspective as to the nature of vulnerability but the application of legislation may be compromised if the definition is not clear. The matter is a complex one. For example, vulnerability connected with social exclusion can be more easily identified than vulnerability connected with being separated from siblings in foster care.

2.3 Are the definitions of 'well-being' and 'social care' in the proposed Order appropriate? If not, how should they be re-drafted and why?

• **Well being**

BAAF welcomes the wide definition of well-being in the draft Order. Too frequently authorities and other organisations have had to concentrate too narrowly on 'outcomes' for children. While these are an essential responsibility for corporate parents and their partners, to disregard the continuing experiences of children is to deny their rights to current happiness, interests and comfort. The 'social investment' model attaching to a limited concentration on outcomes has been criticised as being too narrow. "Although children have moved to the heart of social policy, there is some disquiet about the way they are being positioned ... in particular on the construction of children as 'becomings' rather than 'beings'." (Lister 2006).

BAAF suggests that the definition of well-being in the Order be slightly amended as follows –

- (a) good physical and mental health and emotional security**
- (b) happiness and pursuit of personal interests**
- (c) safety from harm, fear and neglect**
- (d) education, training and recreation**
- (e) involvement in the local community and ability to contribute to society**
- (f) social inclusion and financial security**
- (g) ability to secure their rights as set out in the UNCRC and the related National Assembly for Wales policy frameworks.**

• **Social care**

BAAF considers this to be well defined in the draft Order.

2.4 The proposed Order includes a table setting out certain exceptions from the scope of Matters 15.1-15.8. Are these exceptions appropriate? If not, how should they be re-drafted and why?

The proposed exception in respect of inter-country adoptions, not including adoption agencies and the functions of the Wales Central Authority is appropriate.

3. Workforce issues

The point has been made elsewhere (Garthwaite, 2005), but is worth reiterating, that unless there is significant investment in recruitment and retention of social work staff, it is unlikely that local authorities will be able to fulfil the Assembly's intentions in respect of vulnerable children.

- Despite progress in implementing the recommendations of the 'Garthwaite Report' there remain significant difficulties in recruiting and retaining social work practitioners and managers
- Professionals working in children's services, carers and to some extent the children receiving services are not being valued by society with any consistency. This can be contrasted with the perceived status of other professionals such as doctors or teachers
- Resulting difficulties in recruitment and retention of social workers and carers can lead to real difficulties in establishing strong, reinforcing and nurturing relationships with individual children.
- Practitioners in Wales consistently report to BAAF that they do not have sufficient time to undertake direct work with children who are being moved to a permanent family. Direct work arguably is the core feature of social work and the reason why most people choose this profession. Indeed the National Occupational Standards for Social Work emphasise this in the first three key roles identified for social work -
 - Key Role 1 Prepare for, and work with individuals, families, carers, groups and communities to assess their needs and circumstances
 - Key Role 2 Plan, carry out, review and evaluate social work practice, with individuals, families, carers, groups, communities and other professionals
 - Key Role 3 Support individuals to represent their needs, views and circumstances. (Care Council for Wales 2003)
- BAAF welcomes the Assembly's commitment to this core social work role – 'Services will make proper use of social workers' professional skills in direct work with families and with children' (Welsh Assembly Government 2007)

7. Complex needs of children in need and being looked after or adopted

BAAF's membership continues to report increasing challenges in meeting the needs of children in care with complex needs. These are key points they raise -

- Despite the intentions of the agency, services continue to be resources-led rather than needs-led.
- Plans for children tend to be risk-averse in ways that can be unhelpfully limiting for children -
"We've become very risk averse ... geared up for health and safety. Yet all the evidence shows that young people gain more from being exposed to some risk. We've been good at the protection of clients, but not their development." (Hatton 2006)
- We still struggle with a lack of choice in making suitable placements for children with complex needs.
BAAF recognises that this challenge is being actively addressed by the WLGA-led Children's Commissioning Support Resource (CCSR) but that it

currently remains a very real practice dilemma in children's services. "What is clear to us all in Wales is that something has to change in the way we care for vulnerable children ... as this is the case, it is our duty to make the process the best it can be and we firmly believe that CCSR is one of the mechanisms that will help Children's Services make a difference". (Street 2007)

- The thresholds for intervention and service support are often too high, too restrictive and too varied across different agencies.
- Practice is frequently process-driven where the focus should be on the child. Processes and structures should emanate from the child's needs rather than making the child fit in with them. It is helpful to locate the processes of children's services within a wider context of building stronger communities. BAAF welcomes the emphasis on positive outcomes for children and young people in its anti-poverty / social disadvantage programme Communities First.

BAAF believes that we should review (and possibly widen) the criteria for a child to become eligible for services as a 'child in need' and for a child to become 'looked after'. The draft LCO would enable the Assembly to re-draft these service categories to allow for more flexibility in early intervention and supports, to avoid crisis situations and tailor services better to meet the needs of individual vulnerable children.

References

Care Council for Wales (2003) National Occupational Standards for Social Work. Section 2. p. 5

Garthwaite T (2005) Social Work in Wales: A profession to value

Hatton K (2006) The Guardian March 8.

Lister R (2006) Children (but not women) First: New Labour, child welfare and gender. Sage.

Street B (2007) CCSR Annual Brochure

Welsh Assembly Government (2007) A Strategy for Social Services in Wales over the next Decade: Fulfilled lives, supportive communities. 3.17

David Holmes: Chief Executive of BAAF (david.holmes@baaf.org.uk)
Non Davies: Consultant Trainer, BAAF Cymru (non.davies@baaf.org.uk)
Mary Romaine: Director of BAAF Cymru (mary.romaine@baaf.org.uk)

14.11.07

About BAAF

BAAF has four main roles.

Family finding: for hundreds of children every year through the Be My Parent newspaper and online service; the Adoption Register for England and Wales; Scotland's Children; West of Scotland and North East Scotland Adoption Consortia; and South and North Wales Adoption Consortia

Advice: telephone advice for both professionals and the public; leaflets; booklets; and a wide range of publications directed towards the needs of our target groups of children and young people and all those who care for or support them

Campaigning: nationally and locally, for changes to policy and practice to improve the lives of our target groups of children and young people;

Improving professional practice: through policy and practice guidelines for family placement; guides, research studies, training materials and practice notes; a professional journal - *Adoption & Fostering*; training and consultancy; seminars and conferences; multidisciplinary forums for health professionals, researchers, lawyers, social workers and black and minority ethnic professionals; and health and social report forms for use in family placement.

www.baaf.org.uk