

# **Children in Northern Ireland (CiNI)**

## **Response**

### **DHSSPS Consultation Adopting the Future Consultation**

**September 2006**

## **INTRODUCTION**

Children in Northern Ireland (CiNI) is the regional umbrella body for the children's sector in Northern Ireland. CiNI represents the interests of its 90 member organisations, providing policy, information, training and participation support services to members in their direct work with and for children and young people.

CiNI welcomes the opportunity to respond to this important consultation on adoption services for Northern Ireland. We recognise and acknowledge that this current consultation is part of a process of reform and development that has been ongoing for a number of years. We welcome the efforts that have been made to ensure that the reform and development process has been as broad-based and inclusive of all those key stakeholders to the adoption process in Northern Ireland. CiNI member organisations have pro-actively engaged in the process of reform and development of adoption services and through participation in consultation have contributed their experience and learning gained from supporting and delivering adoption services in Northern Ireland. In responding to this consultation CiNI's key objective is to examine the current proposals and to identify the extent to which the considered input from our member organisations has been reflected in the current consultation proposals and to highlight where further development is required in order to maximise this unique opportunity to create a robust adoption service in Northern Ireland which places the child at the very heart of the process.

CiNI held a consultation workshop for member organisations and others to consider and discuss the consultation proposals and to develop informed feedback which it trusts can positively influence the ongoing development of adoption legislation, policy and practice. CiNI is grateful to these organisations for their input to the process, however we would highlight that while we sought to balance the varying viewpoints that were put forward, ultimately this is the response of Children in Northern Ireland set against our value base. Individual organisations have been encouraged to submit their own responses to reflect their organisation's viewpoint. A list of workshop attendees is provided at Appendix A.

## **GENERAL COMMENTS**

CiNI welcomes and supports the legislative assumption that wherever possible the child's best interests are ultimately best promoted and protected by their birth parents and within their birth family. However we recognise and acknowledge that where the child's birth parents/family cannot promote and protect the child's best interests the state is obligated to provide appropriate support services to meet the needs of these families to enable them to stay together, and equally and we acknowledge that where this support cannot protect the child within its birth family there is an important role for services including fostering and adoption services. Therefore we believe that the significant developments in fostering and adoption services outlined in this consultation must be viewed within the context of overall provision for children and families in need in Northern Ireland. In parallel to improvement and modernisation of fostering and adoption services we would strongly advocate 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. We would highlight that this 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 including a learning disability. We would highlight the work of the recent Mental Health and Learning Disability Review and its Equal Lives Report on Learning Disability. It highlighted the fact that a survey in the EHSSB found that 53 children with a learning disability were living in some form of residential accommodation, which represents 3.3% of children with a learning disability in the Board. Equal Lives suggested that (4.11) if these figures were projected to Northern Ireland as a whole this would mean that around 140 children with a learning disability live away from their families. These families must be provided with the support necessary to avoid the need for their children to be taken into care.

Before considering in detail the key proposals from the consultation document workshop attendees highlighted a number of over-arching concerns in relation to the current consultation which must be addressed if they are to have confidence that Government is committed to listening to the views of stakeholders and creating a new adoption service which everyone can be confident will place the child at the centre of the process and deliver optimal outcomes for all those stakeholders to the adoption process.

There was a real sense that the current 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. Further it was emphasised that given the detail that still remains to be agreed there must be full public consultation on legislation and policy in compliance with the Department's section 75 duty to promote equality of opportunity.

Workshop attendees welcomed the commitment to key action areas, however, there was concern that the specific actions within these areas were not in all instances comprehensive enough to deliver fully on the key action areas. There was also a sense that there were particular key action areas, namely the paramountcy of the welfare of the child and ensuring the child's voice is heard, which 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.

In addition 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.

## **UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD (UNCRC)**

Workshop attendees welcomed the commitment to aligning new adoption law and guidance with the relevant provisions of the Children (NI) Order 1995, particularly the commitment to the principle of the paramountcy of the welfare of the child, which is upheld with reference to the welfare checklist.

However CiNI would further highlight that this current reform and development process presents a unique opportunity to align the law, policy and practice in relation to adoption with international children's rights standards as set forth in the United Nations Convention on the Rights of the Child (UNCRC). In ratifying the UNCRC in 1991 the Government has committed to compliance with its minimum principles and provisions and is therefore obliged to seek to implement these principles and provisions by ensuring that domestic law, policy and practice, and specifically in this case adoption law, policy and practice, conforms with the UNCRC.

CiNI recognises that the Department has acknowledged the importance and relevance of international human rights and children's rights instruments in the process of reforming and developing adoption law, policy and practice here by commissioning research to examine the compatibility of the Adoption (NI) Order 1987 with the international standards of the UN Convention on the Rights of the Child and the European Convention on Human Rights. CiNI welcomes this research and supports its conclusions. However we are 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 (Appendix D, p.79). We would urge the Department to give the research conclusions urgent consideration and take this unique opportunity to accept and positively progress the conclusions to ensure that new adoption legislation, policy and practice is in full compliance with all relevant international human rights and children's rights standards.

The research concluded that to be fully compliant with international human rights and children's rights standards new adoption legislation should require that the child's best interests are paramount in the adoption process (Article 21 CRC). Indeed it concluded that the guiding principles of both Conventions should be incorporated into new adoption legislation in express form i.e. best interests of the child (Article 3 CRC), non-discrimination (Article 2 CRC), respect for the views of the child (Article 12 CRC) and proportionality (Article 8 (2) ECHR). Furthermore, the research concluded that in a similar way as the Human Rights Act 1998 requires Government to act in accordance with the ECHR, new adoption legislation should bind relevant authorities to act in compliance with the UNCRC (Appendix D p.79-80).

CiNI would advocate strongly, in line with the research conclusions, that the UNCRC guiding principles and its provisions relevant to adoption, which give paramourcy to the best interests of the child, should be explicitly incorporated into new adoption legislation, policy and practice. We would highlight that it is only in this way that the objective of placing the child at the centre of the adoption process can be wholly achieved.

## **TACKLING DELAY**

Workshop attendees welcomed the proposals to introduce the principle that delay in decision-making is likely to prejudice the child's welfare in line with Article 3 (2) of the Children Order and the introduction of statutory timescales for certain parts of the adoption process. However concerns were expressed regarding the proposal that legislation would require courts to draw up timescales and give directions to ensure that they are adhered to. This also implies that the courts, with the power to set timescales, could also amend timescales, and perhaps also ignore timescales. Therefore it is

advocated that this function of the court must be carefully legislated for and indeed there should be some form of monitoring of the court's operation of this function.

There were concerns expressed regarding the proposal to legislate for Independent Reviewing Officers (IROs) who would monitor the care plans of looked after children. As they currently operate in England and Wales the independence of the IROs was questioned, given that they would work in the same agency and alongside colleagues responsible for managing the looked after children that they as IROs would be expected to review, therefore it would be difficult for the IROs to be sufficiently removed from the cases that they would be responsible for reviewing, and this would compromise their independence. However, it was also felt that for IROs to operate outside of the agencies with responsibility for the children they would be required to review could also be problematic. It was suggested therefore that rather than creating another additional post/role, which would inevitably take time to legislate for, establish and set up, consideration should be given to extending the role of the Guardian Ad Litem to monitor the care plans of looked after children as they are existing and established officers of the court and therefore could take on, where relevant, the important task of taking the case to the court on behalf of the child.

## **ENSURING THE CHILD'S VOICE IS HEARD**

Workshop attendees welcomed the key action area which commits to ensuring the child's voice is heard. CiNI would highlight that this key action area is of particular significance and importance given that it actions Article 12, one of the fundamental guiding principles of the UNCRC. We believe that while it is important that specific action is taken to ensure the voice of the child is heard through the proposal to establish an advocacy service, as indicated in our general comments, this commitment must be elevated so that it is an over-arching principle that informs and underpins all of the other proposed key action areas. To effectively achieve this CiNI believes that respecting the voice of the child must be an explicit provision of new adoption legislation in keeping with the conclusions of the DHSSPS commissioned research (Appendix D, p.80).

CiNI welcomes the commitment to the creation of an advocacy service. We would urge that advocacy services for children have a statutory basis in new adoption legislation and that the importance of independent advocacy for children in its widest sense is recognised and provided for throughout the entire care/leaving care/after care experience.

We note that in NICCY's recent research on the State of Children's Rights in Northern Ireland (2004) the lack of independent advocacy services, particularly services for children in care, was identified as a pressing concern requiring immediate action, particularly given that in England and Wales advocacy services had already been placed on a statutory basis through Article 119 of the Adoption and Children Act 2002. Therefore the introduction of statutory advocacy services through new adoption legislation in Northern Ireland must be welcomed and supported as it will address the disadvantage experienced by children in Northern Ireland, and in providing them with the right to access independent advocacy services, ensure they are treated in the same way as children in England and Wales.

CiNI would advocate that independent advocacy services are fully accessible to all children and young people with additional and targeted support provided to those children who have complex needs or communications difficulties. Workshop attendees in particular highlighted that given the young age of the majority of children who come into care in Northern Ireland that independent advocacy services would also have to demonstrate specialist skills in enabling and supporting young children to have their voice heard. This would require cognizance to be given to the age and understanding of young children when listening to their voices and deciding how to respond to these voices.

It was also highlighted that while independent advocacy services have a particular role in representing the voices of the child, there is also an important role for other professionals involved in the child's life in advocating for the child's welfare and best interests.

## **PLACEMENT ORDERS**

Workshop attendees expressed some concerns with the proposal to replace freeing orders with placement orders.

It was noted that under the Adoption and Children Act 2002 the placement order authorises a local authority to place a child for adoption with prospective adopters. However it was clearly advocated that this must not exclude the child being placed with foster carers and new adoption legislation must be explicit on this point.

It was felt that given that the majority of contested freeing orders are granted this reflects the fact that social workers are clearly successful in identifying at an early stage those children who will not be able to return to their birth parents and therefore prioritise efforts to achieve permanence for these children. There was real concern that a placement order could in effect hold a child in limbo, more or less in a temporary placement, which would have particularly adverse implications for a young child at the crucial stage of developing healthy parent-child attachment.

It was highlighted that with birth parents and prospective adoptive parents sharing parental responsibility this may have the effect of deterring prospective adopters from the process. In such cases the adoption agency must carefully regulate and provide for the determination of the exercise of parental responsibility being mindful of the overriding concern to ensure the paramountcy of the welfare and best interests of the child.

Given the lack of clarity and uncertainty surrounding the proposed introduction of placements orders it was strongly advocated that there must be clear guidance setting out the scope and remit of placement orders.

## **FINDING THE RIGHT FAMILY**

Workshop attendees acknowledged that it can be difficult to find families for children locally and therefore welcomed the proposal to develop a regional system to match children with the right family. It was accepted that this proposal was in fact formalising a system that was already operating.

CiNI would emphasize that such matching decisions must be taken with a view to promoting the best interests of the child and must take into account the views of the child having regard to the child's age and understanding. While CiNI understands and accepts that it is not always possible to find the right match for a child locally to meet the child's best interests, it is also important that in taking a decision to place a child outside of his/her local area, consideration should also be given to the welfare checklist, particularly the requirement to consider the relationship the child has with relatives and other significant people, and the benefits to the child of these relationships continuing. Therefore arrangements should be established to facilitate the maintenance of these relationships whether directly or indirectly.

## **ELIGIBILITY**

CiNI welcomes and supports the proposals to extend the adoption eligibility criteria to permit civil partners and unmarried couples (whether of different sex or the same sex) living as partners in an enduring family relationship to adopt. This is entirely in keeping with current international and domestic human rights and equality standards and addresses the existing anomaly where currently a single gay/lesbian person can adopt a child(ren) but a gay/lesbian couple is prevented from jointly adopting a child(ren). However, we are disappointed to note the qualification of the inclusion of non-married persons and single sex couples in the Equality Impact Assessment in 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 this is the case for all prospective adopters, we are concerned that by 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.

CiNI also welcomes and supports the reform of the incongruous requirement where in step-parent situations the birth parent has had to adopt their own child, it is clearly much more sensible that in such situations it is only the step-parent who is required to adopt the child.

### **Criminal Backgrounds**

CiNI welcomes the introduction of further eligibility criteria with regard to criminal backgrounds. We agreed that it is essential that all appropriate criminal records checks are conducted and it is entirely appropriate that 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.

### **Age of Applicants**

CiNI is concerned with the setting of upper age limits as a criterion to be used in determining eligibility to adopt. While it was recognised that the criterion did not act as a blanket ban on people aged 50+ adopting it was felt that age was not an appropriate criterion on which to base such decisions. There was in fact consensus that the conclusion from the DHSSPS commissioned research should be accepted and implemented as the appropriate criterion on which to determine eligibility – "a case by case analysis of the suitability of individual applicants governed by what is in the best interests of the child may in fact be the most appropriate approach" (Appendix D, p.80).

It was agreed that there are clearly some older applicants, by virtue of their maturity, experience, or other special qualities, that may be well-qualified to provide a home for some of the children needing adoption. However it was highlighted by workshop attendees that as key professionals would ultimately be making the case by case decisions the Department must provide comprehensive supporting guidance and training on this crucial decision making process.

CiNI would also highlight that the use of age as a criterion to determine eligibility to adopt is also in contravention of the Department's statutory duty to promote equality of opportunity between people of different ages when carrying out its statutory adoption functions. The Department's Equality Impact Assessment identifies that the proposals "may have a differential impact on persons aged 50+ wishing to adopt an infant", however it goes on to state that it is "satisfied that this control is necessary and justified to safeguard the long-term interests of children" (Equality Impact Assessment Para 4.33).

While we acknowledge and understand the concerns regarding the long-term interests of the child, we believe that it is not helpful to single out 'age' as a key determining factor with regard to the eligibility of older people to adopt where there are clearly a range of factors that should be considered in making a decision on the child's best interests.

CiNI would therefore request that the Department remove the upper age limit criterion and instead accept and implement the conclusion from the research which it commissioned. We would also highlight that we are soon to enter an age friendly environment with the introduction of regulations prohibiting age discrimination in employment and training in October 2006. We believe that the Department would be unwise to adopt a criterion which, if age discrimination prohibitions are extended in the future, could be regarded as blatantly age discriminatory practice.

## **PLACEMENT STABILITY**

Workshop attendees recognised that it is vital to look to enhance placement stability for children. However caution was urged in relation to the proposal on dual approval where prospective adopters can also request approval as foster carers, it was emphasised that these roles are quite distinct, requiring different attributes and skills. It is therefore not always the case that a foster carer would be a suitable adopter or vice versa. It was advocated that agencies should not "as standard practice" (DHSSPS, *Adopting the Future*, p. 50) encourage dual approval, rather this should be an option open to prospective adopters. It was felt that dual approval may be most appropriate where the foster carer wants to adopt the child in their care, and if the adoption would be in the best interests of the child, the foster carer's application to adopt would be viewed positively and processed as a priority. It was acknowledged 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. It was highlighted that in such cases while the dual approval application must be rigorously assessed this process should be carried out within appropriate timeframes and balanced alongside the importance of expediently dealing with applications from prospective adopters. It was also 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. It was also highlighted that where foster carers are approved as adopters this will clearly reduce the numbers of available foster carers and make the recruitment of foster carers a greater priority.

## **SPECIAL GUARDIANSHIP**

Workshop attendees supported action to increase the range of options to meet the needs of children where adoption is not appropriate, although it was highlighted that this would only be appropriate for a small number of children.

CiNI notes the operation of special guardianship in England and Wales where the local authority is required to prepare a report on the suitability of the applicant. This includes background information on the child, their family, the prospective special guardian and the local authority's conclusions on the making of a special guardianship order (DHSSPS, *Adopting the Future*, p.107). CiNI would advocate that in keeping with the objective of the current proposals for reform, which aim to keep the child at the centre of the process and ensure the paramountcy of the welfare and best interests of the child, any report on the application for special guardianship, rather than focusing on the suitability of the applicant, should as its core concern investigate whether special guardianship is the best option to promote and protect the welfare and best interests of the child. We would also advocate that any investigation and report on a special guardianship application which aims to meet the welfare and best interests of the child must ensure that the views of the child are heard.

There was also concern expressed that in England and Wales special guardians are not provided for within the provisions on adoption support services. It is strongly advocated that special guardians must also have the right to an assessment of need for support services and must also have the right to have that need met. It was highlighted that any support package for the special guardian must include the provision of appropriate financial support to meet any special needs which the child may have. Also given that with special guardianship the link with birth parents remains, provision should be made within the support package for assistance with managing contact.

It was also strongly advocated that in granting special guardianship this should not prevent a young person from accessing the package of support available under the Children Leaving Care Act 2002.

## **ADOPTION SUPPORT SERVICES**

Workshop attendees expressed concern at the lack of depth to the proposals on adoption support services, which provide limited information on what these services will look like in the future. Given that at present adoption support services are so limited it was felt that these provisions must be significantly developed if stakeholders are to have confidence that the support services that are needed will be provided in the future.

Workshop attendees strongly advocated that there must be a legislative obligation that each of the parties to the adoption process have a right to an assessment of need as per the Adoption and Children Act 2002. However, noting the current gap in the Adoption and Children Act, it was clearly emphasised that this assessment of need must be

accompanied by a subsequent legislative obligation to have the identified need met with a support package that is appropriately resourced. It was advocated that the legislation, informed by a regional assessment of need, should specify the minimum range of services which an adoption agency must provide.

It was emphasised that the role of post-adoption support services is critical to making adoption work for all those involved, acknowledging that adoption is different from birth family parenting.

While the importance of specialist support service such as CAMHs was recognised, it was also highlighted that with the pressures on such specialist services, equal emphasis should be placed on helping adoptive families to provide support to their adopted child(ren).

It was felt that the proposal to centralise and regionalise adoption support services provided an opportunity to ensure planning and co-ordination of support services and encourage the setting of quality standards for such services.

## **CONSENT AND DISPENSING WITH CONSENT**

Workshop attendees recognised that currently where birth parents agree to adoption subject to a condition with respect to the religious persuasion in which a child is to be brought up, this could operate to the effect of delaying/preventing a child being placed with an appropriate family. It was agreed that the condition should be removed recognising that in placement and adoption, in line with Article 20 (3) of the UNCRC, due regard is to be paid to the desirability of continuity in a child's upbringing and to the child's ethnic, religious, cultural and linguistic background. Where this proves not possible the court must be satisfied that there are sound reasons for this not being possible.

There was resounding support for the proposal that independent support and/or mediation should be available for birth parents where they oppose the plan for adoption. However it was also emphasised that 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. Its availability should be widely publicised and promoted to those involved in the adoption process. It was agreed that such support/mediation 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 on an on-going and flexible basis.

There was support for the incorporation of the paramountcy principle which served to reduce the grounds for dispensing with parental consent from six grounds to two grounds. It was acknowledged that the existing "unreasonableness" ground has in practice been interpreted with regard to Convention case law relating to paramountcy and by applying the welfare checklist.

Again in keeping with the objective of placing the child at the centre of the process by ensuring the welfare and best interests of the child are paramount and as part of this by ensuring that the voice of the child is heard in all decision making throughout the adoption process, it was acknowledged that the voice of the child was also important

consideration in discussion on consent and dispensing with consent. While it is noted that the consent of the child is not a current or proposed requirement for adoption and, accepting BAAF's view that in seeking the consent of the child to adoption this may result in children feeling that they are being asked actively to reject their birth parents by consenting to adoption, CiNI does believe that there should be space provided to hear the child's views and feelings on their possible adoption giving these views due consideration in light of the child's age and understanding.

## **ACCESS TO INFORMATION**

Workshop attendees welcomed the proposal to legislate on access to information and highlighted that in the interests of consistency this should be a function managed and co-ordinated at the regional level. In addition guidance should be provided to aid interpretation of legislative provisions and there was agreement that services must be developed in this area as part of the package of adoption support services.

It was noted that there was no specific reference made in the consultation proposal to adopters entitlement to access to information and it was agreed that this was an area where provision must be strengthened recognising that adopters felt that often they lacked important information on their adopted child's background which they required to enable them to respond appropriately to the adopted child's needs.

There was also discussion on whether the adopted child should have access to information, noting that the Scottish Adoption Policy Review Group recommended that young people under 16 should have clear though limited rights to have access to appropriate information from their adoption agency records. In support of the child's right to access information the NICCY Research on the State of Children's Rights also observed that "there is significant weight in the argument (based on Articles 8 and 9) that the adopted child has the right to access information about his/her origins ... this has some support also in the case law of the European Convention on Human Rights" (NICCY, 2004, p.72). Clearly with the drive toward greater openness in adoption and the obligation to consider contact issues, concerns in the future regarding the child's access to information may be negligible. However CiNI believes that in compliance with the UNCRC and to promote equality of opportunity between persons of different age as per section 75, new adoption legislation should recognise the child's right to access information and we believe that the Government should look to implement this right and ensure that it is delivered to the extent that it promotes the child's best interests and in doing so takes into account the child's views. Therefore to protect all the parties to the process, including the child, the birth parents/family and adoptive parents/family, a child's access to information must be carefully prescribed for in legislation and guidance. Specialist child-sensitive, age appropriate and ongoing support services must be put in place for all of those impacted where a child seeks access to information.

## **INDEPENDENT REVIEW MECHANISM**

Workshop attendees supported the proposal to legislate for an Independent Review Mechanism for assessments and indicated support for BAAF in Northern Ireland taking on this role, given that it exercises the equivalent role in England and Wales. It was also agreed that consideration should be given to allowing the Independent Review

Mechanism to hear those cases that do not reach the adoption panel where they are counselled out at an early stage.

## **BIRTH CERTIFICATES**

Workshop attendees welcomed and supported the proposals for amendments to adopted children's birth certificates, which are regarded as long overdue and extremely necessary to address the obvious distress for adopted children where their adopted status is so openly on record.

## **INFRASTRUCTURE**

Workshop attendees welcomed and supported the centralisation of adoption services in Northern Ireland in the interest of ensuring consistency of practice across the region. It was advocated that this centralisation is driven by the objective of ensuring the child's best interests remain paramount to the implementation and delivery of the adoption service.

However there was concern expressed that the service would be centralised within one of the new Trust bodies which are being established as a result of the RPA process. This potentially could create a hierarchy amongst the new Trusts and might not lead to the enhanced efficiency that is envisaged. It was therefore advocated that this significant statutory function would be best located within the new Regional Health and Social Services Authority, which has overall responsibility for the new Trust bodies. Therefore the RHSSA, equipped with the specialist expertise and skills, could plan, manage and control the adoption service regionally with the new Trusts maintaining and supporting delivery of the adoption service locally.

## **PARTNERSHIP WORKING - THE VOLUNTARY SECTOR**

Workshop attendees expressed disappointment and concern at 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 is recognised, promoted and supported within the regional adoption strategy. 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.

It was recommended that to encourage partnership working the voluntary sector should be actively involved in the development of a training strategy on new adoption legislation and guidance and all training delivered under this strategy should be cross-sector and multi-disciplinary. It was also advocated that as well as ensuring the incorporation of international children's rights principles and provisions in legislation and policy, their incorporation in adoption practice should be supported through specific training on children's rights, provided as an underpinning element of all training on new adoption legislation and guidance.

## **INTERCOUNTRY ADOPTION**

In relation to intercountry adoption it was advocated that 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, unless this would be contrary to the child's best interests. However, acknowledging that domestic adoption is not always in the best interests of the child it was agreed that the Department must be informed by international standards on intercountry adoption. It was advocated that as a *minimum* the Department must ensure that the child concerned by inter-country adoption enjoys safeguards and standards equivalent to those existing in the case of national adoption (Article 21 (c) CRC). Indeed, as the Department has recognised that "children adopted from abroad may be particularly vulnerable to additional difficulties arising from early life experience in institutional care" (DHSSPS, Adopting the Future, p.59), it was further advocated that the Department should 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.

In terms of introducing additional safeguards the proposal that legislation should require the consideration of a "match" in ICA by an expert Adoption Panel was supported. However it was highlighting 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.

There are concerns regarding the proposal to introduce charging for DHSSPS casework. It was advocated strongly, while looking ahead to the Department ultimately financing this work, any interim charging system must be fair and proportionate so as to enable equal access, by all section 75 equality groups, to intercountry adoption.

## **SECTION 75 EQUALITY IMPACT ASSESSMENT**

CiNI would advocate that a thorough equality impact assessment must ensure that all children and young people, including particularly children and young people with multiple identities from across the section 75 equality groups, enjoy equality of access to and benefit from care, fostering and adoption services that are appropriate and meet the individual child's needs.

CiNI welcomes the DHSSPS commitment to wide consultation on its proposals for reform and in particular the commitment to consultation with children and families affected by adoption (DHSSPS Adopting the Future, Covering Letter, 4 July 06). CiNI believes that this is a crucial first step for the Department in activating the commitment it has made in the consultation document to ensuring the voice of the child is heard. By ensuring the voice of the child is heard in the process of developing and implementing a new adoption service for Northern Ireland this enables the creation of an adoption service which can truly be said to place the child at the centre of the process. Such consultation is essential not only in ensuring compliance with the Department's section 75 duty, but also in ensuring the Department's compliance with Article 12 of the UNCRC, one of the guiding principles of the Convention - Respect for the views of the Child. In examining the government's compliance with Article 12, the UNCRC Committee recommended that the government,

“...take further steps to promote, facilitate and monitor systematic, meaningful and effective participation of all groups of children in society.” (CRC/C/15/Add.188 Para 30).

At this point CiNI would welcome information on the Department's plans to consult directly with children and young people and indeed information on any feedback which the Department has received as a result of direct consultation with children and young people. We would highlight that in line with Article 12 of the UNCRC, State Parties 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 and indeed we would highlight that there are a wide variety of innovative approaches pioneered by the children's sector which Government has relied on in previous public consultation exercises to ascertain and gather the views of young children.

We would request a copy of the child-friendly version of the consultation document which we would highlight is crucial in facilitating and supporting direct consultation with children and young people. CiNI would also welcome information on how the Department intends to take forward analysis of the consultation responses, particularly in relation to the weighting which will be attributed to both individual and organisational responses. This is a vital element to drawing conclusions from responses and progressing with identified areas for immediate action and in complying with Section 75 of the Northern Ireland Act 1998. For this reason, we would appreciate information both on the system itself and on its operation for the purposes of analysis.

We would highlight that the Equality Commission NI is currently developing Guidance on Consulting with Children and Young People in consultation with Government Departments, children and young people and the children's sector. We trust that through active engagement in this process the DHSSPS will be enabled to adopt and mainstream within its policy development processes models of best practice for the effective engagement of children and young people in all policy decision making that will have an impact on their lives.

CiNI notes from the Equality Impact Assessment that the Department has identified that there is “very little published data in relation to adopted persons and families which would relate to the section 75 groups” (para. 3.2). CiNI would highlight that as an immediate priority the Department must develop and implement an information management system that can collate and maintain information disaggregated by section 75 group. CiNI would highlight that the UN Committee on the Rights of the Child (CRC/C/15/Add.188 para. 19) has recommended the establishment of a system to collect disaggregated data on children for all areas covered by the Convention and this therefore specifically includes disaggregated data on adopted children. We would again recommend that the Department look to implement this recommendation with respect to adopted children for whom it has statutory responsibility.

## **APPENDIX 1 - LIST OF WORKSHOP ATTENDEES**

- Adoption UK
- BAAF NI
- Children's Law Centre
- Family Care Society
- Fostering Network NI
- VOYPIC