

# PERMANENCE PLANNING AND DECISION MAKING FOR LOOKED AFTER CHILDREN IN SCOTLAND: *SUPPLEMENTARY REPORT - CHILDREN IDENTIFIED AS AT RISK AT OR BEFORE BIRTH*

ADOPTION AND CHILDREN (SCOTLAND) ACT 2007



SCOTTISH  
**CHILDREN'S REPORTER**  
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**The Scottish  
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Riaghaltas na h-Alba

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# 1. Introduction

This report is supplementary to the wider study on permanence planning and decision making for looked after children under the Adoption and Children (Scotland) Act 2007 (the 2007 Act). It should be read in conjunction with the main study report<sup>1</sup>.

The wider study explores permanence processes since the implementation of the 2007 Act. It follows on from SCRA's previous research on permanence planning and decision making for looked after children under the Adoption (Scotland) Act 1978 (the 1978 Act)<sup>2</sup>.

For 97 children (48%) of the 200 in the wider study, there had been an assessment of risk at or by the time of their births. This was commonly in the form of a pre-birth case conference and also included cases where there had been a child protection case conference immediately following the birth of the child.

Forty eight of the 97 children (49%) went on to be granted a direct Adoption Order (AO), 31 (32%) a Permanence Order with authority to adopt (POA), and 18 (19%) a Permanence Order (PO).

This supplementary report examines some of the key timelines in the care planning of the 97 children where there had been an assessment of risk before or at their births.

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<sup>1</sup> SCRA and Scottish Government (2015). Permanence Planning and Decision Making for Looked After Children in Scotland: Adoption and Children (Scotland) Act 2007.

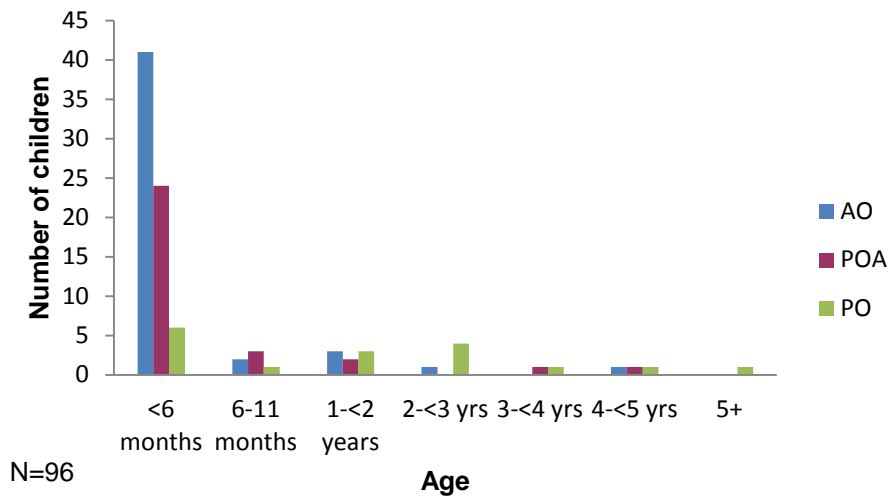
<sup>2</sup> SCRA (2011a). Care and Permanence Planning for Looked After Children in Scotland. SCRA (2011b). Care and Permanence Planning for Looked After Children in Scotland – Children Assessed at Risk at or Before Birth.

## 2. Care Planning

All 97 children had service involvement before they were 6 months old.

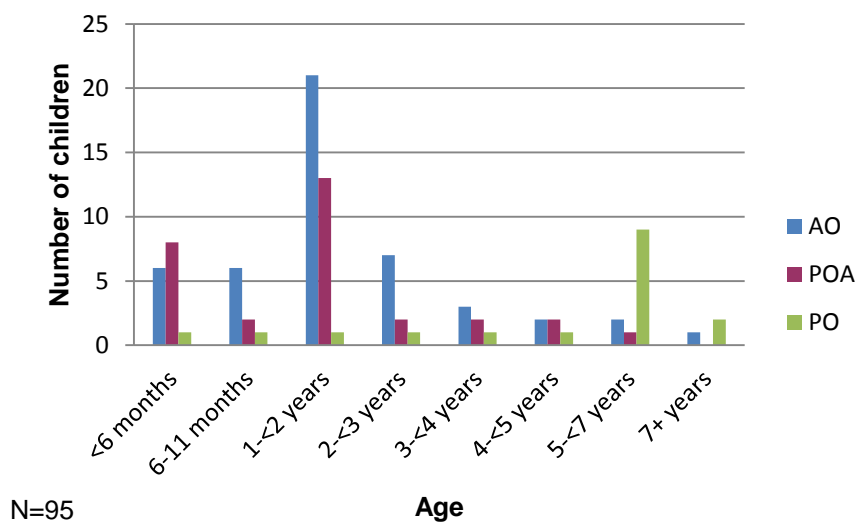
Fifty six of the 97 children (57%) were accommodated at birth, and 71 (74%) had been accommodated before they were 6 months old (Figure 1). This was 85% of children who had direct AOs (41 children), 77% of those with POAs (24 children), and 35% of those with POs (six children).

**Figure 1. Ages of children when first accommodated**



Fifty nine children (62%) were in their final placements before they were 2 years old (Figure 2). However, there were differences across the subsequent Orders – with 68% (33 children) with direct AOs and 77% (23 children) with POAs being in their final placements before they were 2 years old. In comparison, 17% (three children) with POs had been in their final placements by their second birthdays.

**Figure 2. Ages of children at final placement**



Sixty nine children (71%) had Child Protection Registrations. For 57 (83%), this was before they were 6 months old.

There were 48 children (49%) for whom their first referral to the Children’s Reporter resulted in a Children’s Hearing. This figure does not include the 34 children (35%) for whom their first contact with the Reporter was a Child Protection Order (CPO). Table 1 shows the time taken between their first referrals and their first Hearings.

**Table 1. Time between first referral to the Reporter and first Children’s Hearing**

Time Taken	Number of children
Under 1 month	8
1 month	8
2 months	14
3 months	12
4-5 months	3
6-11 months	3
12 months or more	0
<b>Total*</b>	<b>48</b>

\*Does not include CPOs

Once a Hearing has been arranged, the Hearing itself then needs to decide whether compulsory measures of supervision are required or not. The grounds of referral are presented at the Hearing and the relevant persons (usually the parent(s)) are asked to accept or deny the grounds. Where grounds are not accepted and they are deemed serious enough, they are sent to the Sheriff to be established. Also if the child is too young to understand the grounds, they will also be sent to the Sheriff. Table 2 shows the time taken between the first Hearing and the grounds being established at court.

**Table 2. Time between first Children’s Hearing and grounds established.**

Time Taken	Number of children
Under 1 month	9
1 month	30
2 months	31
3 months	12
4-5 months	10
6-11 months	1
12 months or more	2
<b>Total</b>	<b>95</b>

It took between one and 2 months for grounds to be established for approximately one third of the children, and for a further third between 2 and 3 months.

## Supervision Requirements

Once grounds have been established, another Hearing is arranged and it is at this point a Supervision Requirement (SR) can be made<sup>3</sup>. Table 3 shows the overall time between the first arranged Hearing and when an SR was made.

**Table 3. Time between first Children’s Hearing and Supervision Requirement made**

Time Taken	Number of children
Under 1 month	2
1 month	13
2 months	24
3 months	24
4-5 months	18
6-11 months	11
12 months or more	4
<b>Total</b>	<b>96</b>

The time taken between the Hearing and a SR being made ranged from less than one month to over a year. For 39 children (41%) this process took up to 3 months. It took at least 6 months between the first Hearing and an SR being made for 15 children (16%).

## Permanence identified

It was possible to identify when permanence was identified for 95 of the children. ‘Permanence identified’ is defined for the purposes of this research as when it was first recorded that permanence should be considered for a child.

Table 4 shows the time taken to identify permanence from when services were first involved in the child’s life. Identification of permanence was most commonly made between 6 and 12 months (26 children, 27%) and between one and 2 years (25 children, 26%) after first service involvement.

**Table 4. Time between first service involvement and permanence identified**

Time taken	direct AO	POA	PO	Total
Under 6 months	12	4	1	17
6-11 months	15	7	4	26
1-<2 years	13	11	1	25
2-<3 years	5	4	4	13
3-<4 years	2	3	1	6
4-<5 years	1	1	3	5
5 years and over	0	0	3	3
<b>Total</b>	<b>48</b>	<b>30</b>	<b>17</b>	<b>95</b>

<sup>3</sup> All of the children in this study were first referred under the Children (Scotland) 1995 Act. Supervision Requirements were replaced by Compulsory Supervision Orders by the Children’s Hearings (Scotland) Act 2011.

## Matching

Once permanence had been identified, local authorities proceed to finding a 'match' to the child in terms of who their permanent carer will be. This would usually be made by the Adoption & Permanence Panel and approved by the local authority Agency Decision Maker. The time taken between permanence being identified and the 'matching' panels is shown in Table 5. This information was available for 77 children.

**Table 5. Time between permanence identified and permanence matching/Adoption & Permanence Panel**

Time taken	direct AO	POA	PO	Total
Under 6 months	6	7	0	13
6-11 months	14	2	0	16
12-17 months	13	3	0	16
18-23 months	4	3	2	9
2-<3 years	4	1	4	9
3-<4 years	1	1	5	7
4-<5 years	1	0	1	2
5 years and over	3	0	2	5
<b>Total</b>	<b>46</b>	<b>17<sup>4</sup></b>	<b>14</b>	<b>77</b>

Within the direct AOs, the time between permanence being identified and matching panel was between 6 and 11 months for 14 children (30%), or 12 and 17 months for 13 children (28%). For five children (11%), this process took at least 3 years.

Within the POAs there were seven children (41%) where the time taken was under 6 months. This is a significant proportion of the POA children, however the overall number of children where these data were available is smaller, and moreover a number of children had not yet had a matching panel suggesting that the longer times are not evident in the table.

There were 14 children who went on to have a PO where the data were available. For all of them the time to the matching panel was at least 18 months. For five children (36%) this took between 3 and 4 years.

## Advice Children's Hearings

Before an application for a direct AO can be made to the court, firstly an Advice Hearing must first be held for children who are subject to compulsory measures of supervision. The Advice Hearing is requested by the local authority. The purpose of this Hearing is to prepare a report to the Sheriff providing its advice regarding the proposed Order.

Once an Adoption & Permanence Panel has made its recommendation, the Agency Decision Maker has 14 days to ratify the decision. The birth parents are then notified

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<sup>4</sup> Only 17 of the 31 POA children had these data available. For the most part, this was because a matching panel had not yet taken place, although in some cases a plan for the child to be adopted with a sibling was in place. However, the level of data was not always evident so it is not possible to identify all the reasons behind the data.

within 7 days and have 28 days to respond to the local authority as to whether they agree or not with the decision. Where parents do not agree, the agency informs the Reporter within 7 days.

For POs, the matching panel or Adoption & Permanence Panel may be held after the decision for a PO has been made, and in fact an Advice Hearing has been held or requested.

Table 6 shows the time taken between the Adoption & Permanence Panel and the Advice Hearing being requested *where an Adoption & Permanence Panel was held first*.

**Table 6. Time between Adoption & Permanence Panel and Advice Hearing requested**

Time taken	direct AO	POA	PO	Total
Under one month	9	3	4	16
1-5 months	22	3	0	25
6-11 months	3	2	0	5
12-23 months	2	0	2	4
24 months or more	0	0	1	1
<b>Total</b>	<b>36</b>	<b>8</b>	<b>7</b>	<b>51</b>

Once an Advice Hearing has been requested, the Hearing should be arranged by the Reporter. If parents do not agree with the plan then this should be arranged within 21 days of the request. Table 7 shows the time taken to arrange the Hearings.

**Table 7. Time taken between Advice Hearing requested and arranged.**

Time taken	direct AO	POA	PO	Total
21 days or less	26	17	7	50
22-31 days	5	7	2	14
32-41 days	5	0	3	8
42 days or more	2	3	3	8
<b>Total</b>	<b>38</b>	<b>27</b>	<b>15</b>	<b>80</b>

Across all the Orders, just under two thirds had an Advice Hearing arranged within 21 days. A further 18% (14 children) were arranged within 22 to 31 days.

Once an Advice Hearing has been held that produces a report for the court - this should be sent to the court within 5 days. It was sometimes difficult to assess the time taken for this as the only way to gather the data was to look at the date stamped on receiving the report held in the court file. Some reports were not always stamped though, or appeared to have been received along with the petition. Data were available in 66 cases.

**Table 8. Time between Advice Hearing and report received by court.**

Time taken	direct AO	POA	PO	Total
5 days or less	13	9	3	25
6-10 days	9	2	0	11
11-20 days	5	2	2	9
21-30	0	4	0	4
31 days or more	8	3	6	17
<b>Total</b>	<b>35</b>	<b>20</b>	<b>11</b>	<b>66</b>



For 25 of the children (38%) the court had received the report within five days. However, for 17 of the children (26%) this process took more than one month.

## Petition

The final stage of the permanence process prior to the court proceedings is the submission of the petition by the local authority or the adopting parents.

**Table 9. Time between Advice Hearing and petition submitted to court**

Time taken	direct AO	POA	PO	Total
Under 1 month	4	15	2	22
1-<2 months	13	11	1	25
2-<3 months	3	0	1	4
3-<4 months	8	1	3	11
4-5 months	4	1	4	9
6-11 months	3	2	3	8
12 months or more	1	0	4	5
<b>Total</b>	<b>36</b>	<b>30</b>	<b>18</b>	<b>84</b>

Adoption agencies must submit their application to Court within 28 days of receiving the report from the Children’s Hearing. Across all the Orders applied for, there were 22 applications (26%) submitted within one month of the Hearing. Applications appear to be submitted most quickly where a POA was applied for as 87% of POA applications were submitted within 2 months of the Hearing as opposed to 47% of the direct AOs and 17% of POs.

## 3. Court Proceedings

### Petitions and reports

When the local authority or adoptive parents submit a petition, reports must also be submitted to court which outline the child’s circumstances and background and reasons for the Order being sought. The times between the applications submitted and reports submitted are shown below.

**Table 10. Time between application submission and report submission**

Time taken	direct AO	POA	PO	Total
<b>Under 1 month</b>	32	29	17	78
1-<2 months	9	0	0	9
2-<3 months	4	0	0	4
3-<4 months	0	0	0	0
4-5 months	1	0	0	1
6-11 months	1	0	0	1
12 months or more	0	0	0	0
<b>Total</b>	<b>47</b>	<b>29</b>	<b>17</b>	<b>93</b>

It was common for those submitting the petition to submit the accompanying report at the same time. Across all the Orders the majority (84%) were submitted within one month.

When a petition and report have been submitted, the court appoints two types of legal officers whom must contact the birth parent(s) to ascertain if they fully understand the permanence/adoption process, visit the child to investigate the case and give advice to the court on the child's welfare and best interests. In practice, the same person usually undertakes both roles. The time taken between the receipt of the report and the appointment of the officers is shown below.

**Table 11. Time taken by court to appoint curators ad litem and Reporting Officers**

Time taken	direct AO	POA	PO	Total
5 days or less	20	12	10	42
6-10 days	7	10	3	20
11-20 days	8	3	4	15
21-30	8	3	0	11
31 days or more	4	1	0	5
<b>Total</b>	<b>47</b>	<b>29</b>	<b>17</b>	<b>93</b>

It was found that courts commonly appointed curators and Reporting Officers the same day that reports were received. For 42 children, (45%) appointments were made within 5 days. In 83% of cases they were made within 3 weeks.

Once appointed, curators ad litem and Reporting Officers have 4 weeks to submit their reports.

**Table 12. Time taken to produce curators ad litem and Reporting Officer reports.**

Time taken	direct AO	POA	PO	Total
28 days or less	13	11	7	31
29-56 days	27	13	7	47
57-84 days	6	5	3	14
85 days or more	2	1	1	4
<b>Total</b>	<b>48</b>	<b>30</b>	<b>18</b>	<b>96</b>

There was no significant variation across the orders as to whether the reports were submitted on time or not. However, across the 96 cases where these data were available, only 31 (32%) were submitted within the 28 day deadline.

As the preliminary hearing date had already been set when curators ad litem and Reporting Officers were appointed there was often little time between the court receiving their reports and the hearing being held (Table 13).

**Table 13. Time between receiving curators ad litem and Reporting Officer reports and hearing held**

Time taken	direct AO	POA	PO	Total
28 days or less	44	25	15	84
29-56 days	3	4	3	10
57-84 days	1	0	0	1
85 days or more	0	1	0	1
<b>Total</b>	<b>48</b>	<b>30</b>	<b>18</b>	<b>96</b>

Across all the Orders the majority (88%) of hearings were held within 28 days of the curator and Reporting Officer reports being received.

Once the first court hearing had been held, court proceedings from then on largely depended on how the birth parents were responding to the application. The times taken for the overall court process are shown in Table 14.

**Table 14. Time between application submission and Order granted**

Time taken	direct AO	POA	PO	Total
Under 1 month	0	0	0	0
1-<2 months	6	7	6	19
2-<3 months	5	7	5	17
3-<4 months	11	2	2	15
4-5 months	9	3	1	13
6-11 months	15	9	3	27
12 months or more	2	3	1	6
<b>Total</b>	<b>48</b>	<b>31</b>	<b>18</b>	<b>97</b>

Across all the Orders, the overall court process varied in terms of time. For 19 children (20%) the process was completed within 2 months, with a further 17 children (18%) being completed between 2 and 3 months. However, for 27 children (28%) the time between application submission and their Order being granted was between 6 and 11 months, with six cases (6%) taking over 12 months.

## 4. Overall Timescales

The key points in the overall process of securing an Adoption Order or Permanence Order for children with risk assessments at or before their births are shown in tables 15 to 20.

**Table 15. Time between permanence identified and Order granted**

Time taken	direct AO	POA	PO	Total
Under 6 months	0	3	0	3
6-11 months	1	5	0	6
1-<2 years	27	10	0	37
2-<3 years	7	9	3	19
3-<4 years	5	2	2	9
4-<5 years	3	0	4	7
5-<7 years	4	0	3	7
7 years or more	1	0	5	6
<b>Total</b>	<b>48</b>	<b>29</b>	<b>17</b>	<b>94</b>

There was some variation across the Orders in the time taken between permanence being identified and the Order being granted (Table 15). For the 29 children who were granted a POA, all were completed within 4 years. However, all still needed to obtain an Adoption Order in the future. For the children who were granted a PO, none were completed within 2 years of permanence being identified, whereas 62% of POAs and 58% of direct AOs had been.

**Table 16. Time between first service involvement and application to court**

Time taken	direct AO	POA	PO	Total
Under 6 months	0	0	0	0
6-11 months	0	2	0	2
1-<2 years	16	9	0	25
2-<3 years	14	12	0	26
3-<4 years	7	3	1	11
4-<5 years	1	2	3	6
5-<7 years	7	2	3	12
7 years or more	3	1	11	15
<b>Total</b>	<b>48</b>	<b>31</b>	<b>18</b>	<b>97</b>

Commonly for children with direct AOs and POAs, the time between first service involvement and the permanence application being made to court, was between one and 2 years (25 children), or 2 and 3 years (26 children). However, for PO children this period took 7 years or more for 11 children (Table 16).

**Table 17. Time between first service involvement and Order granted**

Time taken	direct AO	POA	PO	Total
Under 6 months	0	0	0	0
6-11 months	0	2	0	2
1-<2 years	7	5	0	12
2-<3 years	16	10	0	26
3-<4 years	10	7	1	18
4-<5 years	4	3	2	9
5-<7 years	7	3	4	14
7 years or more	4	1	11	16
<b>Total</b>	<b>48</b>	<b>31</b>	<b>18</b>	<b>97</b>

**Table 18. Time between first accommodated and permanence identified**

Time taken	direct AO	POA	PO	Total
Under 6 months	27	12	4	43
6-11 months	12	9	6	27
1-<2 years	6	6	4	16
2-<3 years	2	2	1	5
3-<4 years	1	1	2	4
4-<5 years	0	0	0	0
5-<7 years	0	0	0	0
7 years or more	0	0	0	0
<b>Total</b>	<b>48</b>	<b>30</b>	<b>17</b>	<b>95</b>

Once children had been accommodated, permanence was identified relatively. For 43 children (45%) this decision was made within 6 months of them being accommodated (Table 18).

**Table 19. Time between first accommodated and application to court**

Time taken	direct AO	POA	PO	Total
Under 6 months	0	2	0	2
6-11 months	0	3	0	3
1-<2 years	24	16	0	40
2-<3 years	12	6	1	19
3-<4 years	4	2	1	7
4-<5 years	1	1	3	5
5-<7 years	4	1	5	10
7 years or more	3	0	7	10
<b>Total</b>	<b>48</b>	<b>31</b>	<b>17</b>	<b>96</b>

**Table 20. Time between first accommodated and Order granted**

Time taken	direct AO	POA	PO	Total
Under 6 months	0	0	0	0
6-11 months	0	4	0	4
1-<2 years	15	9	0	24
2-<3 years	16	8	0	24
3-<4 years	6	6	1	13
4-<5 years	4	3	4	11
5-<7 years	4	1	5	10
7 years or more	3	0	7	10
<b>Total</b>	<b>48</b>	<b>31</b>	<b>17</b>	<b>96</b>

For the majority of the children with a direct AO, the time between being accommodated for the first time and their Order being granted was up to 2 years (15 children) or up to the third year (16 children). Four POA children had achieved their Order within a year, and none the year after. There was only one PO child whose Order was granted within 4 years of first being accommodated, with seven children taking more than 7 years (Table 20).

## 5. Discussion and conclusion

The 97 children discussed in this report had all been assessed as at risk at or before their births, and 56 of them (58%) had been accommodated at birth. Most children who went onto have direct AOs (85%) or POAs (77%) had been accommodated before they were 6 months old. In comparison, 35% of those who went onto to have POs were accommodated before they were 6 months old.

Similarly, most children who went onto have direct AOs (68%) and POAs (77%) were more likely to be in their final placements before they were 2 years old. Just 17% of children who went onto have POs were in their final placements before they were 2 years old.

Some children experienced little delay in moving towards permanence. There were 17 children (18%) where permanence was identified within 6 months of first service involvement (16 of these children went onto have direct AOs or POAs). For other children, this decision took considerably longer. There were 27 children (28%) where permanence was identified after 2 years of service support.

Once accommodated, permanence was identified in under a year for 74% (70 children). This was particularly the case for children who went onto have direct AOs, where 81% (39 children) had permanence identified within a year of them being accommodated. Almost half (45%) had permanence identified within 6 months of being accommodated. However, guidance on the 2007 Act says that after 6 months the majority of looked after children should have a clear plan either to achieve a return home or permanent placement elsewhere<sup>5</sup>.

For almost half (46 children, 49%), it took less than 2 years from permanence being identified to the Order being made by the Sheriff. For some, it took considerably longer, with this taking more than 5 years for 13 children (14%) – five with direct AOs and eight with POs. For all the POA children, their Orders were made within 4 years of permanence being identified.

For 66% (64 children) the court process from application to Order made took less than 6 months. For 6 children (6%), this took over a year.

Permanence was being identified at an early stage for almost half of these very young children. However, there was still a proportion where services were not making decisions or acting fast enough in the long-term interests of these children, particularly the time between permanence being identified and progressed to the courts. The areas for improvement discussed in the full report of this research still apply to those children who have been assessed as at risk at or before their births.

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<sup>5</sup> Scottish Government (2011). Guidance on the Looked After Children (Scotland) Regulations 2009 and the Adoption and Children (Scotland) Act 2007. Edinburgh: Scottish Government.

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