



SCOTTISH
CHILDREN'S REPORTER
ADMINISTRATION



Care and Permanence Planning for Looked After Children in Scotland



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Executive Summary

Over 9,000 children are looked after away from home in Scotland. The Social Work Inspection Agency (SWIA) overview report suggests that 50% of these children are placed with foster parents and 28% are looked after by friends or relatives¹. About 200 of these children are adopted each year.

The SWIA report confirms that where children cannot live with their parents they need safety, security and stability in their lives to achieve successful outcomes. SWIA further identifies that planning for permanence should be the primary objective for all placements and that this planning should begin as soon as possible.

This research explores the pathways and decision-making processes through the care and court systems in Scotland for 100 looked after children from the point they were first identified as at risk, to the point of adoption or permanence. Information was obtained from records held by Scottish Children's Reporter Administration (SCRA) teams and Sheriff Courts across Scotland. All cases had been dealt with under the Adoption (Scotland) Act 1978.

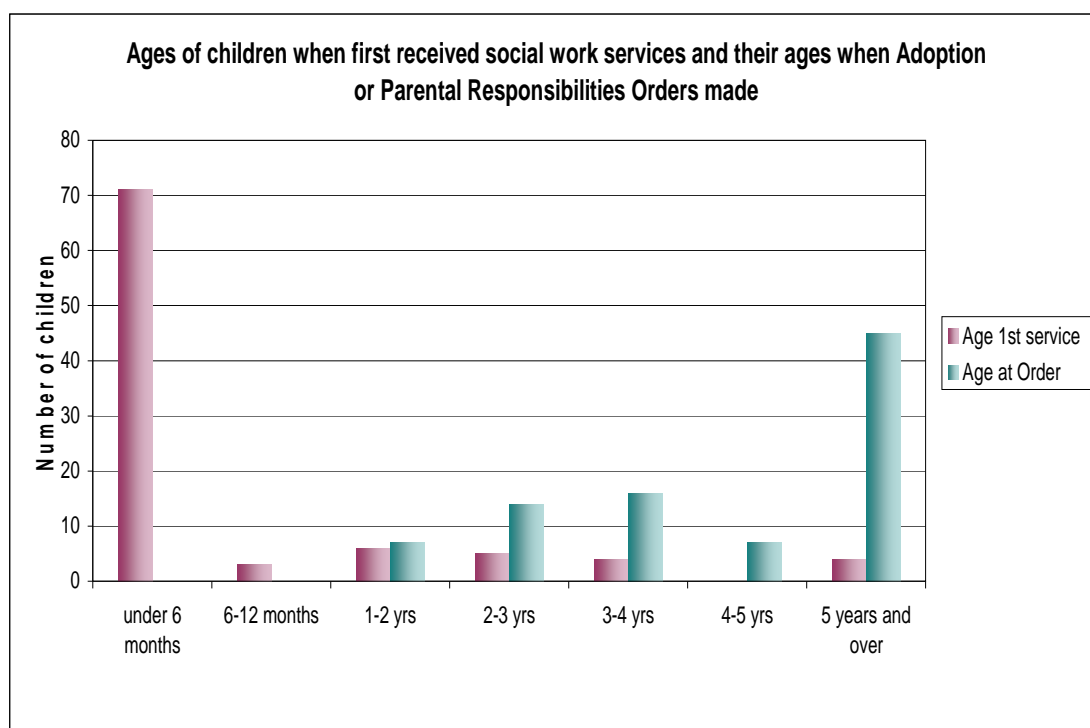
Delays in decision making and obtaining a permanent placement can mean poorer outcomes for children. It is therefore important to know how such decisions are made to consider how they can be improved.

Main findings

For the majority of children it took more than two years from their first involvement with services to when they achieved permanence through Adoption or Parental Responsibilities Order. The shortest time was 12.5 months and the longest 10 years and 10 months.

¹ Social Work Inspection Agency (2010). Improving Social Work in Scotland.

The figure below shows the ages of the children on first referral to services and their ages when Adoption or Parental Responsibilities Orders (PROs) were made:



Age at first service n=93; Age at Order n=89

- Seven children (8%) achieved permanence within two years – all had been identified as at risk at birth.
- 32 children (including 23 identified as at risk at birth) (39%) achieved permanence in between two to four years; and
- 44 children (53%) took more than four years (eight had been assessed as at risk at birth).

First contact with services

All of the 100 children first came to the attention of services because of concerns about their parents' ability to care for them and/or to keep them safe. All were under four years old, and 44% were assessed as being at risk, either before or at birth. Sixty children (60%) had been on the Child Protection Register, most commonly under categories of Physical Neglect or Risk of Physical Neglect. All had been referred to the Children's Reporter, in 70% of cases because of 'lack of parental care'.

Placements

All of the children were first accommodated with foster carers or relatives due to concerns about the care provided by their parents; 24% were accommodated at birth. Only 21% of the children ever had a period in their parents' care after being accommodated.

Fifty five children (55%) had two placements (including their final placement), and 13% of children experienced four or five placements.

Sixteen children (17%) had less than six months between their first and final placements. Eleven children (12%) were in their final placements within a year (including nine newborns), and the remainder took over a year (including 30 newborns); for seven of these children (8%) it took over four years.

Deciding permanence

For 32 children (including 29 assessed as at risk at birth) (35%) it took less than a year from their first contact with services to the decision for permanence. For 35 children (38%) this took over two years, and for 19 of these children it took over three years.

In 50% of cases (n=36) there was less than a year between the decisions on permanence to them being matched to their prospective permanent carers. In 17% (n=12) of cases it took over two years.

For 29 children (30%) there was less than a year between permanence being decided and the application submitted to court for the Adoption Order or PRO. In 40 cases (41%) this took between one and two years; and in 29 cases (30%) it took more than two years with 15 of these cases taking over three years.

The main causes of delays in reaching the decision to move to permanence were parenting assessments and rehabilitation attempts with birth parents or other relatives.

Court processes

In 57% of cases (n=60) the court process was completed within six months. Twelve cases (11%) took more than a year. Lengthier court process were associated with late submissions of reports and birth parents opposing the applications leading to disputed proceedings. Twenty one cases required proof and/or pre-proof hearings as the birth parents disputed the application.

- The 28 day deadline from the Children's Hearing to submission of the petition to the court was met in 30% of cases.
- In 33% of cases it took the local authority/adoption agency more than 28 days (from the submission of the petition) to provide its report to the court.
- In 77% of cases, curators ad litem and Reporting Officers were appointed within 28 days of the local authority's report. In 32% of cases their reports were submitted within the required four week timescale.
- 80% of court hearings dates were fixed within two weeks of receipt of curators ad litem and Reporting Officer reports.

Areas for improvement

Decision making and implementation

The time up to decisions being made about permanency was a major contributor to delays in the process. Four areas for improving the quality and timeliness of decisions and their implementation are identified:

- There is a need for discussion and guidance on rehabilitation with birth parents. This needs to balance the rights of parents and the child. Consideration should be given to the level of risk a parent presents to their child from what is known about their history of care of their other children, if other children have been adopted or accommodated, and/or their offending history (especially offences against children).
- There is a need for standards and management information in relation to all stages of the permanence decision making process. This would allow assessment of performance at a local authority and national level.
- Some children experienced multiple moves and placements; others had the security of long-term carers before moving to their adoptive parents. Both these circumstances can impact on the development of a child's attachment to adoptive parents. There are few standards or guidance on numbers or length of placements and we should use this opportunity to discuss, consider and agree the numbers of moves and placements a child should experience which takes into account age and stage of development. Agreement and monitoring of these would allow local authorities to assess their performance in minimising them.
- Children who go on to be adopted form a small minority of children who are looked after. Over 9,000 children are now looked after away from home and their numbers are growing. These children are subject to the same decision making processes within local authorities and the Children's Hearings System as those who go onto be adopted. If there are delays in decision making for children who are adopted, including babies accommodated at birth, we should consider whether this is also the case for other looked after children.

Children's Hearings System

The decisions made by the Children's Reporter when children are referred to them can have an impact on whether a child becomes looked after and if and when the local authority can make decisions on permanence.

- SCRA will use this research to review Reporter decision making and to improve its performance for current and future cases to ensure that the right decisions are being made to safeguard the welfare of children in the short and long term.

- Similarly, decisions made by Children's Hearings can have consequences for permanence planning. There are anecdotal reports about Children's Hearings being causes of delay; however, there has been no study to determine if this is the case or to identify improvements. There is an opportunity to examine and understand this better and consideration should be given to undertake an evaluation of practices and performance on Children's Hearings held to review Supervision Requirements and to provide advice to the court on adoption cases.

The Adoption Policy Review Group's 2005 report found that communications between local authorities, adoption/permanence panels, Children's Hearings and the courts could be improved. This research found that this was still an issue with delays occurring because of late reports or reports being mislaid between SCRA, local authorities and the courts.

- Local authorities, SCRA and the courts should explore ways of improving communication mechanisms (including feedback), as part of their interagency working.

Court processes

There were few delays in the court process once the petition for the Order had been lodged. Where delays occurred these were because of late submission of reports by the local authority/adoption agency and/or late curator ad litem and Reporting Officer reports. In addition, there was wide variation in practice of curators ad litem and Reporting Officers in obtaining the views of children and birth parents.

- There is an opportunity for SCRA, local authorities and the courts to improve the adoption application process by considering whether a single report would suffice for the advice Children's Hearing and the court.
- There is scope for improving the operation of curators ad litem and Reporting Officers nationally.

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1. Introduction

Every child has the right to belong to and be cared for within a family; this principle is enshrined in the 1989 United Nations Convention on the Rights of the Child and the European Convention on Human Rights (ECHR)². Adoption is a way of providing a new family for a child when living with his/her own family is not possible.

The numbers of looked after children and young people in Scotland are increasing. In 2009 there were 15,288 looked after children with 9,356 of these children looked after away from home³. In 2004 there were 6,693 children looked after away from home – a 40% increase (Audit Scotland, 2010).

The potential long-term damage to a child of growing up in the care system is well known; they have poorer educational achievement than their peers (Audit Scotland, 2010) and can have difficulty coping with adult life. However, some children do have positive experiences and outcomes from growing up in care. For a minority of looked after children, adoption or another form of permanence is identified as best meeting the child's long-term needs. About 200 looked after children are adopted in Scotland each year (Annex 1).

The importance to a child's development of growing up in a secure family environment has been known for many years. Early childhood experiences have a significant and lasting impact on a child's physical, emotional, social and cognitive development, and play a large part in the attachment of the child to their main caregiver (Davidson & McKenzie, 2010). This is apparent in even very young children: the older an infant is when placed with their adoptive parents, the more difficult it is for them to form attachments to them (Kenrick, 2009); and children adopted before they are six months old may have fewer problems in adolescence compared to those adopted later in life (Monck *et al*, 2003).

Children whose birth parent(s) are unable to care for them have often experienced many bouts of separation and loss (Steele & Steele, 2008). Any delays in obtaining stable placements for these children are likely to impact on their long-term well-being and outcomes in life (Davidson & McKenzie, 2010). It also means that these children can remain exposed to abuse, neglect and violence. The time taken to come to decisions for these children is therefore crucial to their safety and development (Ward *et al*, 2010).

Delays in decision making and obtaining a permanent home can undermine a child's long-term life chances (Ward *et al*, 2010). **It is therefore important to know how such decisions are made and if they can be improved.** This research explored the pathways and decision-making processes through the

² The ECHR was brought into force in the UK by the Human Rights Act 1998, with effect from October 2000.

³ With foster carers or prospective adopters, other community placement and in residential care.

care and court systems in Scotland for 100 looked after children from when they were first identified as being at risk to when they were adopted or other form of permanence.

Aim - of the research was to understand the process of permanence planning and adoption for looked after children in Scotland and to consider any changes that may be required.

Legislation

All the cases examined in this research were Adoption and Freeing Orders under the Adoption (Scotland) Act 1978 (the 1978 Act) and Parental Responsibilities Orders (PROs) under the Children (Scotland) Act 1995 (the 1995 Act). The 1978 Act was repealed and replaced by the Adoption and Children (Scotland) Act 2007 (the 2007 Act) in 2009. The PRO provisions in the 1995 Act were also repealed at this time.

The 2007 Act came into force on 28 September 2009. Cases that were started before this date continued under the provisions of the 1978 or 1995 Acts. When the research started in July 2010, very few cases under the 2007 Act had been concluded. It was therefore only possible to obtain 100 concluded cases for this research, and which were consistent in terms of legislation, if all had been dealt with under the provisions of the 1978 or 1995 Acts.

Comparison of the 1978 and 2007 Adoption (Scotland) Acts

The 2007 Act was introduced to modernise, improve and extend the system of adoption in Scotland (Scottish Executive, 2006). For example, a wider range of people are now able to adopt, there are improvements for access to support services for people affected by adoption, and clearer information about adoption services. The change that is most relevant to this research is the introduction of Permanence Orders and the abolition of Parental Responsibilities and Freeing Orders. Permanence Orders are designed to provide greater flexibility and legal security to children than Parental Responsibilities and Freeing Orders. Permanence Orders can be used as a final destination and also as a route to adoption.

This research considers only cases dealt with under the 1978 and 1995 Acts, however much of the decision making processes examined are little different to those under the new legislation. Annex 2 provides a comparison of the timescales of the various stages of the adoption process under the 1978, 1995 and 2007 Acts.

Three types of legal orders are considered in this report. These are:

Adoption Orders - place the parental rights and responsibilities to a child with his/her adoptive parents⁴. The birth parents have no parental rights to the child. Adoption Orders are permanent and have lifelong consequences.

Freeing Orders - The purpose of a Freeing Order⁵ is to remove the rights of the birth parents to the child. Once granted, parental rights lie with the adoption agency which is the local authority. The birth parents' agreement is not required for the adoption of the child.

Parental Responsibilities Orders - were intended to safeguard the long-term welfare of a child. They differ from Adoption and Freeing Orders in being made under the Children (Scotland) Act 1995 (section 86) rather than adoption legislation. The effect of a PRO was to grant the local authority all the rights and responsibilities for the child, except the right to agree (or not) to the child being freed for adoption or adopted. They also differ from Adoption Orders in terminating at the end of childhood.

⁴ Section 12 Adoption (Scotland) Act 1978, now section 28 of the Adoption and Children (Scotland) Act 2007.

⁵ Section 18 Adoption (Scotland) Act 1978

2. Methods

Ethical considerations

Court records

Adoption proceedings are confidential. Once an Adoption or Freeing Order has been granted by the Sheriff and communicated to the Registrar General for Scotland, the court process records must be sealed for 100 years and not made accessible to any person (except the adopted person once they are 16 years old). However, there are exceptional circumstances where court records may be accessed. One of these is where Scottish Ministers have authorised access for research purposes where the research is intended to improve the working of adoption law and practice⁶. The Minister for Children and Early Years granted SCRA this authorisation on 5 August 2010. The Lord President and the six Sheriffs Principal also granted their approval for SCRA to access court records for the purposes of this research.

Court processes for PROs are not sealed or subject to the same requirements for authorisation for access as Adoption Orders. SCRA also requested and was granted permission from the Minister, Lord President and Sheriffs Principal to access court records on PROs.

Confidentiality

The information extracted from court records and SCRA case files was held electronically and securely on encrypted laptops or in an electronic folder accessible only by members of the research team. No names or identifying information of any child or person related to the child's case were recorded. Thus the data extracted were non-identifiable and used for the purposes of this research only. All data collected were destroyed when analysis was complete. The three members of the research team have Enhanced Disclosure Scotland clearance.

Information sources

SCRA holds information on looked after children who are defined as looked after by reason of a Supervision Requirement (or a Warrant or Child Protection Order). SCRA case files contain reports from social work, police and other agencies as well as all the referrals and decisions made by Reporters and Children's Hearings. They provide a comprehensive record of the child's case from when they first came to the attention of services. However, for children who are adopted and/or freed, or have PROs, SCRA only holds information on Children's Hearings processes. It is the individual

⁶ For cases under the 1978 Act, rule 2.14(2)(e) (freeings) and rule 2.33(2)(e) (adoption) of the Act of Sederunt (Child Care and Maintenance Rules) 1997 in the sheriff court; and Act of Sederunt (Rules of the Court of Session 1994) 1994, rule 67.32(2)(f) for adoptions in the Court of Session. For cases under the 2007 Act, rule 25(2)(e) (adoption) and rule 39(3)(e) (POA) of the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009 in the sheriff court; and Act of Sederunt (Rules of the Court of Session 1994) 1994, rule 67.21(2)(e) (adoption) and rule 67.33(3)(e) (POA).

Sheriff Courts who hold records of how the children's cases they have dealt with have progressed to Orders being granted.

SCRA and the individual Sheriff Courts were the only two sources of information selected for this research for the examination of the histories of looked after children. Local authorities also hold records on the looked after children that they are responsible for. These records were not accessed for this research as this would have required seeking and obtaining permission from each of the 32 local authorities in Scotland. This would not have been possible in the timescale for the research. In addition, the scope of the research would have been limited by the local authorities who did grant permission.

The SCRA and court records examined covered the process from when the children were first identified as at risk, through the interventions and placements they received before being identified for permanence, to the process of the recommendation and application to the courts to the Order being made.

Selection of the sample

It is not possible to obtain a list of children across Scotland who have had Adoption, Freeing or Parental Responsibilities Orders made. This made identifying the children for this research a complex process.

Information is held centrally by General Registrar for Scotland as part of his responsibilities for the registration of Adoption Orders⁷, and is only available in an aggregated and anonymised form (due to its confidentiality) and does not include PROs and Freeing Orders. The only other central source of information is the Scottish Government which collates information from local authorities on looked after children including if they were looked after under a PRO or Freeing Order⁸ (and not Adoption Orders). This information is provided to the Scottish Government in an anonymised form and it is not possible to trace individual cases from it (Scottish Government, 2009).

The 100 cases in the sample were children whose Supervision Requirements were terminated in 2009-10 and where a Children's Hearing had been held related to adoption. This allowed identification of children who had been adopted or had some other form of permanence. In general, Supervision Requirements are terminated when Orders are made by the Sheriff. This approach also allowed for inclusion of cases that had taken various times to complete – i.e. from one year to over 10 years.

⁷ Schedule 1 Adoption (Scotland) Act 1978 now Schedule 1 Adoption and Children (Scotland) Act 2007.

⁸ Children subject to Freeing Orders are not looked after in terms of s17 of the 1995 Act, although Freeing Orders give local authorities all parental responsibilities and rights.

Proportional sampling was used to ensure a representative spread of cases across Scotland and ensure that children from both rural and urban areas were included. The sample comprised of 46 males and 54 females.

In addition, the SCRA files on 15 children, identified by Authority Reporters, which had been very delayed or had never achieved permanence, were also examined. Five are males and 10 are females.

Information collection

All information collected was recorded against a defined set of variables (criteria). These were selected from a pilot study of case files held by SCRA and on advice of Sheriff Court staff. Information collected focused on when there were first concerns about the child as well as the number and types of placements they had had throughout their life, and the permanency process from start to end. This allowed the timeline to be followed through all stages from when the child was first identified as at risk to when the Order was made (see Annex 3 for research variables).

Information was collected from SCRA case files between August and October 2010 and from court records in September and October 2010.

Information was recorded and analysed using MS Excel.

Information was obtained from:

SCRA teams: Aberdeen City, Aberdeenshire, Angus, Argyll, Dumfries & Galloway, East Ayrshire, East Dunbartonshire, Edinburgh, Fife, Glasgow, Highland (Inverness; Thurso), East and Midlothian, North Ayrshire, North Lanarkshire, Renfrewshire, South Ayrshire, South Lanarkshire, West Dunbartonshire, West Lothian, Dundee, Falkirk, Perth & Kinross, Scottish Borders, Stirling and Clackmannanshire, Moray, and Western Isles.

Sheriff Courts: Glasgow, Edinburgh, Selkirk, Haddington, Livingston, Airdrie, Falkirk, Kirkcaldy, Dunfermline, Dundee, Arbroath, Aberdeen, Peterhead, Elgin, Dingwall, Inverness, Fort William, Perth, Dumfries, Hamilton, Kilmarnock, Dunoon, Alloa, Paisley, Stirling, Dumbarton, Ayr, and Greenock.

For some children, the petition was lodged and Order granted in a court in a different part of the country to where the child was placed. This was largely dependent on the location of the adoptive parents.

3. Background and early contact with services

Siblings adopted or permanence made

It was possible to tell from the children's files whether they had any siblings who achieved permanence or were living away from home or at home. Information on siblings was recorded where this was included in social work reports. Half siblings were also included in this as they were relevant to decision making and family background. There may have been children where there were half siblings within a family and they were not mentioned within the case file and therefore could not be included in this study.

Twelve children who were adopted and four children who were subject to PROs had siblings that achieved permanence prior to them.

There were 41 children with siblings who were already living away from the family home with relatives, foster carers, other birth parents or were in secure accommodation or in prison.

Overall, 45% of the parents had already been separated from another child or children when decisions were being made about the child in this study.

47% of the children had a sibling going through the permanence process at the same time as them (some also had older siblings who had already been accommodated). There were no siblings in 18% of the families.

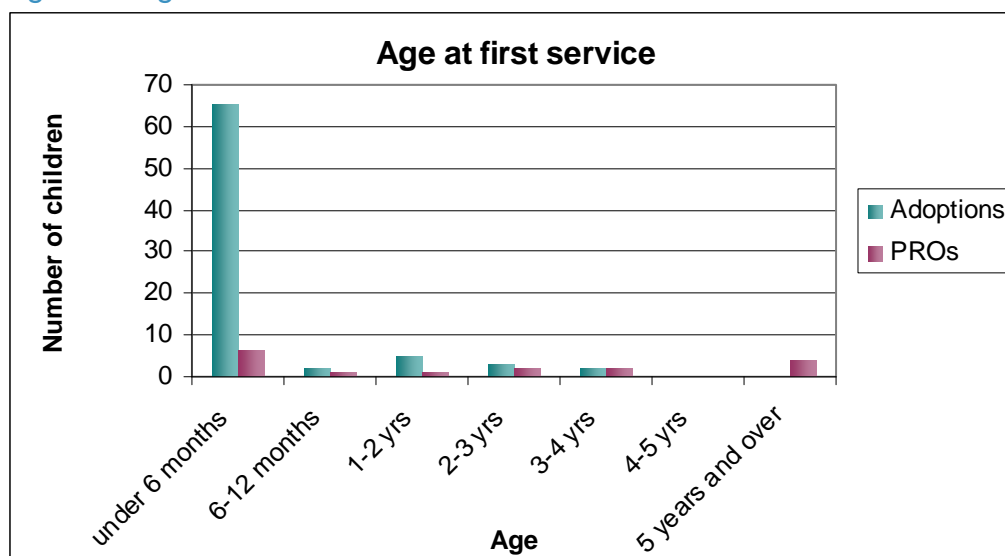
Whilst the accommodation of older siblings had a positive impact on the time taken in deciding permanence for some children, this was not the case for a number of others. In fact, where known, the average time taken to decide permanence where parents had already been separated from a child was still 16 months for adopted children and 46 months for children subject to PROs.

First contact with services

All of the children in the study came into contact with social work services due to there being concerns around their care and protection by their parents. Information was collected on when the child first received social work input or was identified as being at risk by another agency or individual, such as a health professional or a relative.

Figure 1 shows the ages for the children when the family was first in contact with social work services or the child was identified at risk.

Figure 1. Ages of children at first service



N= 93⁹

- The majority of children (65) who went on to be adopted began receiving social work services before they were six months old. All children who went on to be adopted had involvement with social work before they were four years old.
- Six of the children who became subject to PROs had involvement with social work before they were six months old. Four children who became subject to PROs were aged five or over when first involved with services.

Age and assessment of risk

For 61% of the children, social work services were already working with the family at the time they were born. This was either because the parent(s) had been identified as posing a specific risk to the child, or the family was already working with social work as there were concerns about older siblings.

Within this group, 44 newborn children had been assessed formally as being at risk prior to birth or at birth¹⁰, with a number of children being placed on the Child Protection Register (CPR) or receiving a Child Protection Order (CPO) at this time.

Table 1 shows the ages of the children the first time they were placed on the CPR and/or received a CPO. The figures in brackets show the number of at risk newborns who were placed on the CPR at birth or prior to birth or where a CPO had been granted at birth.

⁹ In seven cases, it was not possible to identify the children's age at first service.

¹⁰ This was defined in the study as there being evidence of a pre-birth or birth case conference or assessment. All children who were accommodated at birth are also included in this group.

Table 1. Ages of children when placed on the CPR and/or a CPO granted

Age of children	Number of children placed on CPR (incl. at risk newborn)	Number of children where CPO granted (incl. at risk newborn)
Under 6 months	32 (22)	27 (15)
6-12 months	6	6
1-2 years	4	6
2-3 years	6	2
3-4 years	6	0
4-5 years	3	3
5 years and over	3	3
Total	60	47

N=100

Children can be recorded on the CPR for more than one category at a time. The most common category of initial registration was for Physical Neglect or Risk of Physical Neglect (44 cases). This was followed by Risk of/Physical Injury (nine cases) and Risk of/Emotional Abuse (nine cases). There were six cases of Risk of/Physical Abuse and four of Risk of/Emotional Neglect.

Thirteen of the children were placed on the Register for a second time, with about half placed under the original category and half under a new category.

Referral to the Children's Reporter

As all children in the study had been 'looked after children' and had Supervision Requirements, they had all been referred to the Children's Reporter at some point in their lives. Table 2 shows the grounds of referral to the Reporter at their first referral.

Table 2. Grounds of referral to the Children’s Reporter– first referral

Grounds of referral	Number of children referred
(a) Beyond control of any relevant person	0
(b) Bad associations or moral danger	2
(c) Lack of parental care	70
(d) Victim of a Schedule 1 offence	11
(e) Member of the same house as a victim of a Schedule 1 offence	3
(f) Member of the same house as a Schedule 1 offender	4
(g) Member of the same house as an incest victim and perpetrator	0
(h) Not attending school	0
(i) Allegedly committed an offence	0
(j) Misused alcohol or drugs	0
(k) Misused solvents	0
(l) In the care of the local authority and special measures are necessary	0
More than one	8
Unable to determine*	2
Total	100
Child Protection Order	23

N=100

* Some referrals in this study were made prior to the creation of SCRA’s Referrals Administration Database and it was not possible to determine from the file the original grounds of referral

The most common ground of first referral was ‘lack of parental care’, with over two thirds of the children referred on this ground. This was followed by ‘victim of a Schedule 1 offence’, with 11 children referred. Out of the 100 children in the study, 23 had been referred on grounds along with a CPO for their first referral.

For each referral made, the Children’s Reporter investigates the child’s case and decides whether there is a need for compulsory intervention. Where this is determined to be the case and there is sufficient evidence to proceed, a Children’s Hearing will be arranged. Where a child is referred with a CPO a second working day Hearing will be arranged to consider whether to continue the CPO or not; and an eight working day Hearing will consider grounds for referral.

Table 3 shows the Reporter decisions for the 100 children. Numbers shown in brackets are the newborns who were formally assessed prior to or at birth.

Table 3. Reporter decisions – first referral

Reporter Decision	Number of children (incl. newborns)
Arrange Children's Hearing	75 (39)
No indication of a need for compulsory measures	13 (4)
No Hearing - insufficient evidence to proceed	2
No Hearing - measures already in place	1 (1)
No Hearing - refer to local authority	6
No Hearing - family have taken action	1
Unable to determine	2
Total	100

N=100

For three quarters of the children, the referral decision was to arrange a Children's Hearing. Thirty nine of these children were newborns assessed prior to or at birth.

There were 23 children, for whom a known Reporter decision was made to not arrange a Children's Hearing; 20 of these decisions were made before the introduction of SCRA's 'Framework for Decision Making by Reporters' in November 2006 (SCRA, 2005). For the remaining three children, two Reporter decisions were that compulsory measures were not required and one was that current measures were already in place.

Whilst 75 children were required to attend a Hearing from their first referral, all the cases in the study had proceeded to a Hearing at some point. Table 4 shows the time period between first referral and first Hearing.

Table 4. Time between first referral to the Reporter and first Children's Hearing

Time taken	Number of children
Under 1 month	30
1 months	7
2 months	11
3 months	11
4-5 months	10
6-11 months	13
12 months or more	16
Unable to determine	2
Total	100

N=100

For 30 of the children there was less than one month between their first referral to the Reporter and their first Hearing. This number will have been influenced by the 23 children who were subject to CPOs. Overall 70% of the cases had proceeded to Hearings within six months of first referral, and 16% were at least 12 months later. For those taking a longer time, in 14 out of the 16 cases, the Reporter decision for the first referral was not to proceed to a Hearing.

In all but one case, the outcomes of the first Children’s Hearing were to refer the grounds to the Sheriff for proof¹¹, and where present, to continue a CPO. Table 5 shows the time taken between the first Hearing and first Supervision Requirement.

Table 5. Time between first Children’s Hearing and first Supervision Requirement

Time taken	Number of children
Under 1 month	1
1 months	25
2 months	41
3 months	18
4-5 months	9
6-11 months	3
12 months or more	3
Total	100

N=100

For the majority of the children (67) there was less than three months between their first Hearing and being made subject to a Supervision Requirement. For three children this process took over one year and a number of Hearings had been arranged and continued for the following reasons: absence of family member, further investigation required, relevant person had not received Hearing papers, and for the full consideration of supplementary reports by Panel Members and relevant persons.

The most common type of initial Supervision Requirement was with ‘other approved foster parent’. This was the case for 72 of the 100 children and was the most common type for adopted children and the PRO children. Twenty-one of the children were made subject to Supervision Requirements with a parent/relative person and five with a relative/friend. Just two children were made subject to Supervision Requirement with a relative/friend who was an approved foster parent.

¹¹ Section 68 Children (Scotland) Act 1995

4. Deciding permanence

One of the key stages in considering the timeline for children, who have achieved permanence, is the length of time taken to *decide* that returning the child to their parent(s) is no longer an option and that a permanent placement needs to be found. The time of this decision was often recorded in reports to the Children’s Reporter and was usually made at a Looked After Child’s (LAC) Review. In some cases it was recorded as part of a permanence meeting.

For 14 children, whilst a decision was made to pursue permanence, it was also decided that parallel planning would be used. Seven of these children were the ‘at risk newborns’. Parallel planning had not been used for any of the children who later became subject to PROs, although these children more commonly spent time back in the care of their parent(s) after first being placed away from home. Placement issues are discussed in more detail below.

Table 6 shows the length of time taken for permanence to be decided. The time taken is calculated from the point of first involvement with social work service for the child and the point of decision for permanence or permanence with parallel planning. Times are also shown for the newborn group.

Table 6. Length of time taken to decide permanence

Time taken in months	Number of children - adoptions	Number of children - PROs	Number of newborns - adopted	Number of newborns - PRO
Less than 6	16	0	14	-
6-11	15	1	14	1
12-23	23	1	9	-
24-35	12	4	4	-
36-47	7	2	1	-
48-59	1	3	0	-
60 or more	1	5	0	-
Total	75	16	42	1
Total children N=91 ¹²			Newborns N=43	

For 32 of the children, the decision to move for permanence was made within 12 months of working with the family; 29 of these children were newborns assessed at risk at birth.

For 35 of the children the decision was made after at least two years, and for 19 children it took three years or more. The data shows that children who were not adopted and were subject to a PRO had experienced a longer period of decision making over permanence.

¹² These data were unavailable for nine of the children, including one newborn.

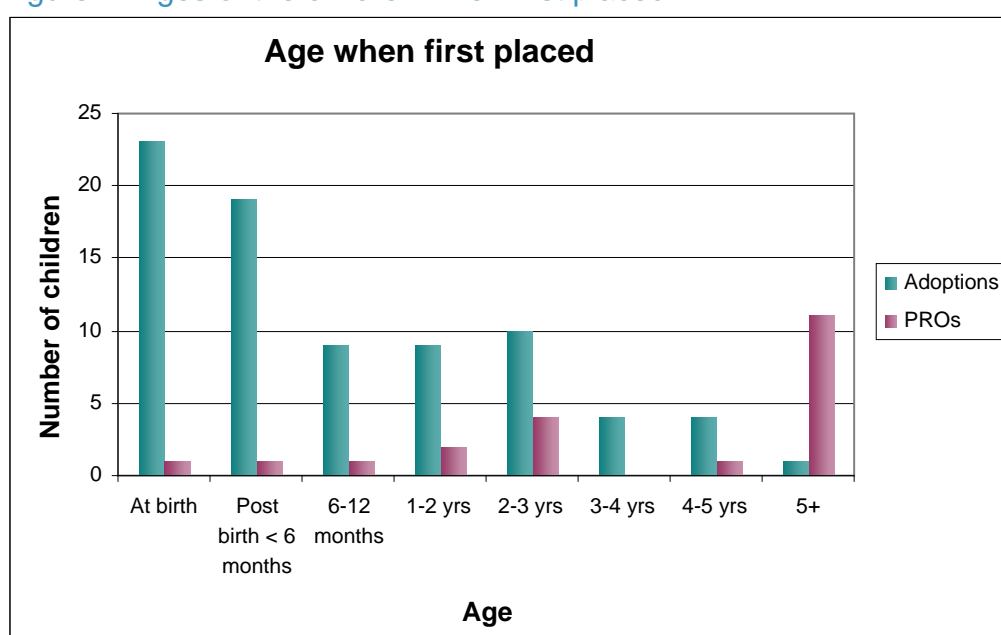
5. Placements

First placements

All of the children had first been placed with foster carers or relatives due to concerns around the care provided by their parents. Twenty four of the children had been accommodated at birth, with 10 of these children being placed originally under voluntary measures – section 25 of the Children (Scotland) 1995 Act.

Figure 2 shows the ages of the children when they were first placed with carers.

Figure 2. Ages of the children when first placed



Just over half of the children who went on to be adopted had been placed away from home for the first time before they were one year old. Whereas for the children who were subject to PROs, 11 of the 21 children were five years old or more when they first moved from their parents.

The majority of the children had been placed with foster carers when they were first moved. 85% of the adopted children and 75% of the PRO children were placed with foster carers. The rest had been placed with relatives, except one child in each group who had been placed with a family friend.

Numbers of moves and placements

Out of the 79 children who were adopted, only 18% (n=14) had ever returned home to the care of their parents after they were first accommodated. For the children subject to PROs, the figure was higher at 33% (n=7). Only six out of the 44 assessed newborn children were ever returned home for a period of time after being first placed.

For those who were returned home, the adopted children tended to have a shorter period back in their parents' care in comparison to the PRO children. 14 of the adopted children had been returned home, however, in two cases it was not possible to identify the dates of moves and so it was not possible to determine the length of time spent back home. Out of the other 12 children, 10 were only ever returned once, with a further one child having two returns, and one child three returns. For the 10 children returned once, five had been returned for approximately two months or less. Three children spent over a year back with their parents but less than 18 months. For the child who had three returns, the longest period was just three weeks.

For the PRO children, seven children had returned home, and again in two cases it was not possible to identify the dates of moves. Out of the remaining five cases, all children had experienced at least eight months back in their parent's care, with one child returned home for over four years. Only one child was returned home more than once, in this case the child was home on two occasions for approximately a year and half each, and a third time for a period of seven months.

Number of moves

In most cases it was possible to determine the total number of moves that the children had made, including their final placement, and also the number of different placements they had experienced¹³.

Moves were identified as a move to any carer for a period of at least seven days. The first move from hospital at birth to either the parent or a foster placement has not been included as a move. The exception to this were two cases where a child had experienced at least three weeks in hospital at birth due to suffering from withdrawal symptoms from drugs or alcohol and a move to foster care was then more substantial¹⁴.

Number of placements

Placements were identified as formal placements with relatives/friends or other carers and not with birth parents. Again placements were included if this was for a period of one week or more.

The number of moves and placements calculated include that to the final placement.

¹³ Six of the children who had Freeing Orders had not been placed with adoptive parents at the time of the petition or study, however they are still included here as their number of moves and placements to that point were known.

¹⁴ For these children it was felt that the length of time spent in the hospital did not allow the same opportunity for attachment to begin, unlike the other children who were accommodated at birth.

Table 7. Number of moves

Number of moves	Number of children – Adoption Orders	Number of children – Freeing Orders	Number of children - PROs	Number of newborns - all
0	1	0	0	1
1	9	11	5	19
2	17	10	3	13
3	7	5	5	4
4	6	5	5	5
5 or more	5	3	3	2
Total	45	34	21	44

N=100

Out of the 79 children who were adopted, 20 had experienced only one move. In 18 of these cases the child had been placed at birth and remained with a foster carer or relative until they moved to their adoptive parents. This was also the case for one of the PRO children. Although these children only experienced one move, some tended to spend a prolonged period of time with their first carer before being moved. The least amount of time spent with the first carer was seven months, and the longest time was 23 months. On average these children spent 15 months in their first placement.

For four children who were subject to PROs and only experienced one move, this was a move to a foster carer who went on to look after the child for the long term, though this was not planned at the beginning of the placement.

Only one child in this study was placed with carers (who were relatives) at birth and was subsequently adopted by the same carers.

Nearly half the children (44 cases) had experienced at least three moves by the time of their final move and over a quarter (27) had experienced at least four moves. Seven of these children had been assessed as at risk as newborns. There were three children who had experienced nine moves.

Table 8. Number of placements

Number of placements	Number of children – Adoption Orders	Number of children – Freeing Orders	Number of children - PROs	Number of newborns - all
1	2	1	4	1
2	25	22	8	34
3	10	9	6	7
4	7	2	3	2
5	1	0	0	0
Total	45	34	21	44

N=100

Table 8 shows the number of placements experienced by the children including their final placements. Whilst some children had experienced a higher number of moves, some had returned to the same foster carer or had

moved back to their birth parents a number of times. The most common number of placements was two, with 55 children experiencing this. There were 13 children who had experienced four or five different placements.

Just over half of all children looked after away from home have experienced two or more placements. Scottish Government (2010) statistics for 2008-09, show that of the 9,356 children looked after away from home, 48% had experienced one placement, 22% two placements, 11% three placements, 6% four placements, 4% five placements and 6% had six or more placements¹⁵. The national performance indicator of 'looked after with three or more placements' was an average of 31% in 2007-08 (Social Work Inspection Agency, 2010).

Length of time in placements

The length of time spent in the care of adults other than their birth parents was also gathered.

Table 9. Longest period of time in a single placement prior to final placement

Length of time in months	Number of children – Adoption Orders	Number of children – Freeing Orders	Number of children – PROs	Number of newborns - all
Less than 6	7	3	11	2
6-11	6	4	4	10
12-17	10	9	2	12
18-23	12	8	1	10
24-29	5	2	0	4
30-35	2	0	2	1
36 or more	3	1	0	1
Total	45	27	20	40

N=92¹⁶

Table 9 shows that some children (15), more often those who were adopted (with or without Freeing Orders), spent two years or more in a single placement before moving to adoptive parents. Whilst this offered some stability, the files often recorded that the child had built a strong attachment to this carer and therefore moving the child on successfully was often dependent on substantial input and preparation by foster carers. One child in this group had a single placement for over four years following two previous placements with a relative as a very young baby and a previous placement with a different foster carer.

¹⁵ Information on placements was not available for 316 children (Scottish Government, 2010).

¹⁶ Six children who were subject to Freeing Orders had not been placed with adoptive parents at the time of the study/petition - these children are not included in this part of the analysis. Four of these children were also in the newborn group. Information was not available for one of the PROs.

Table 10. Time between first being placed and move to final placement

Length of time in months	Number of children – Adoption Orders	Number of children – Freeing Orders	Number of children – PROs	Number of newborns - all
Less than 6	6	1	9	1
6-11	4	5	2	9
12-17	8	5	3	12
18-23	9	12	1	9
24-35	12	2	1	7
36-47	2	2	2	1
48-59	3	0	0	1
60 or more	1	0	3	0
Total	45	27	21	40

N= 93 N=40

Sixteen of the children, including one of the newborns, had less than six months between their first placement and final placement. However, in all but one of the cases, the children had been placed as part of their care plan before permanence had been decided. This relates to the current foster carer or relative deciding they would look after the child long-term and was not a co-ordinated move once permanence was decided. In total 24 children moved to their final placement before permanence was decided, many of whom were PRO children. An even higher number were adopted by foster carers as opposed to ‘strangers’ but it was not always possible to tell if this was planned at placement or not.

For the one child that had a planned permanent move, this relates to the quick action of the local authority. This child and siblings had been placed in foster care under CPOs and permanence was decided three months later. The child was then placed two months after this.

A further 11 children had moved to their final placement within a year. In three cases the move had been before permanence was decided (including both of the PRO cases). For the other children this had been implemented following the move for permanence.

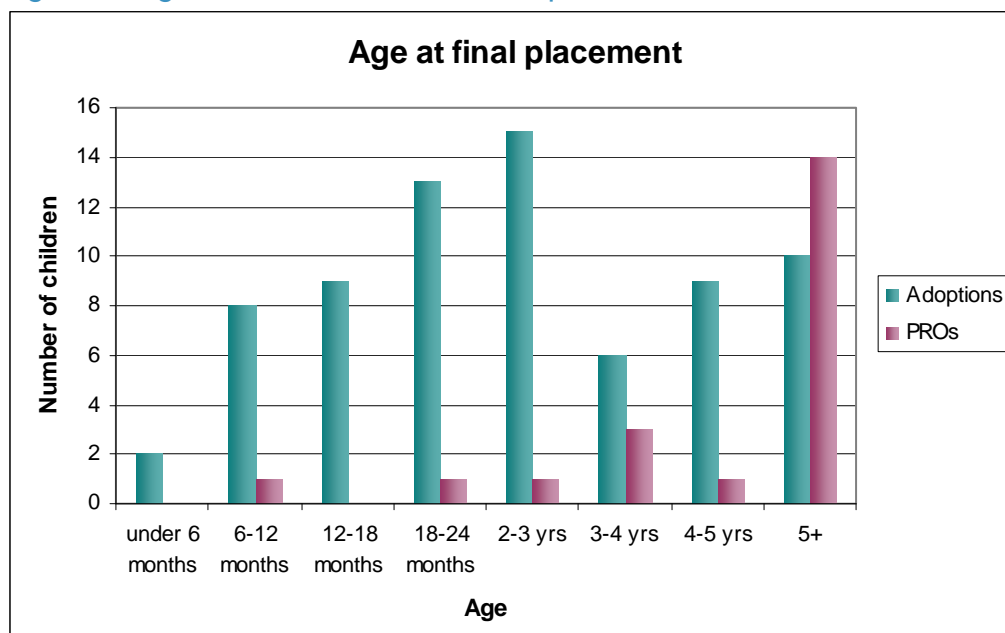
In total there were 17 PRO children who were in their final placement prior to permanence being decided. Six of these children had already experienced two different placements prior to their final move.

For seven children there was a period of four years or more between their first move and their final placement. Three of the children were subject to PROs and had periods of time when they were returned home before being placed away from home again. For the four children who had been adopted, the long length of time was a combination of moves and time spent in each placement. One child had experienced nine moves between home, placements with relatives and their final placement. One child had six moves including a prolonged foster placement and another child had eight moves including a six month stay back home. The fourth child had two long foster placements before moving to a final placement.

Overall it was found that there was variance as to when children were placed with adoptive parents or permanent foster carers in the permanence process. Some were placed prior to permanence being decided, others placed after permanence was decided and prior to an Advice Children’s Hearing. Other agencies requested an Advice Hearing and then pursued placements – this applied to both Adoption and Freeing Orders cases.

Figure 3 shows the ages of the children when they moved to their final placements.

Figure 3. Ages of children at their final placements



A number of the PRO children (12) had first been placed away from home when they were four years old or more, following this, 14 children were at least five years old when they made their final move. In fact, 10 children were eight years old or more, with the eldest being 12 years.

For the children who were adopted, there was a greater spread across the age groups for final placement. The most common age was two years old, with 15 of the children in this age group.

Biehal *et al* (2009) looked at the outcomes for children across three different types of permanent placement – strangers (new adoptive parents), adoption by foster carers and long-term foster care. They found that children’s emotional and behavioural difficulties were not affected by the type of permanence achieved, that is, adoption or long-term foster care but they were predicted by the *age* at their final placement, with the best results for children who were placed at age three or under. Also those who had the most concerning scores on emotional and behavioural assessment, had very similar scores when they had been assessed five and eight years earlier, suggesting that early adversity was key.

In this study, two thirds of the children were in their final placement by the age of three years old.

6. Processes from matching

Adoption and permanence panel

One of the key stages in a permanence process is matching the child with their permanent carer(s). For an adoption placement, a match between a child and prospective adopters is recommended by the adoption/permanence panel and then the agency decision maker decides whether to follow the recommendation¹⁷. The dates of adoption/permanence panels were recorded during data collection where possible. In 22 cases the information was not found within the SCRA or court files and in a further six cases this process was not recorded as the children had Freeing Orders and had not yet been matched with adoptive parents.

Table 11 shows the time taken between permanence being decided and the adoption/permanence panel held where a match was made or confirmed. In 11 cases (where data were available), parallel planning had been used and these timescales are also shown. Parallel planning had not been used for any of the PRO children.

For eight of the 11 cases it was possible to determine when the decision for parallel planning had been made. In four cases, the decision to use parallel planning was made at the same time as permanence was decided. In four cases the decision for parallel planning was made before permanence was decided; this ranged from four to seven months before.

Table 11. Time taken between permanence decision and matching panel

Time taken in months	Number of children - adoptions	Number of children - PROs	Number of newborns - all	Parallel Planning used
Less than 6	13	1	9	1
6-11	18	4	9	2
12-17	13	0	8	3
18-23	8	3	5	2
24-35	5	2	3	1
36-47	1	1	0	1
48-59	0	1	1	0
60 or more	1	1	0	1
Total	59	13	35	11

N=72

In 36 cases, there was less than one year taken between deciding permanence and a matching panel being held. Eighteen of these cases were from the newborn group and in three cases parallel planning had been used.

In 12 cases, this process took over two years and included children who went on to be adopted or subject to PROs and one of the newborn group. In the

¹⁷ There was no requirement for PRO plans and/or possible matches to be considered by adoption/permanence panel, although some local authorities did do this.

two longest cases of children who were adopted (over three years and over five years), parallel planning had been used.

Advice Children’s Hearings

After the adoption agency has ratified a decision of the panel to pursue permanency and certificate of notifications have been sent to the birth parents, the agency had within seven days to notify the Principal Reporter that it is proceeding with adoption or a PRO; the Principal Reporter must arrange an Advice Hearing within 21 days if the birth parents do not agree with the plan for adoption.

Table 12 shows the time taken between the adoption/permanence panel and the request from the adoption agency to arrange a Children’s Hearing. It was found that adoption/permanence panels across Scotland could be held a number of times for the one child, or sometimes just once. That is, sometimes an adoption panel would make a recommendation to proceed with adoption and recommend a match at the same time, whereas at other times separate panels would be held. The dates used below are for a panel that made the recommendation to proceed with adoption or a PRO plan, where this was found.

The recording of adoption panel recommendations was not as evident as other areas in the permanence process and in some cases it was not possible to tell when the adoption agency requested the Children’s Hearing as there was no record in the SCRA or court files. Table 12 is based on 56 cases.

Table 12. Time taken between adoption panel recommendation and Advice Children’s Hearing requested by adoption agency

Time taken in months	Number of children - adoptions	Number of children - PROs
Under 1 month	6	2
1-5	34	2
6-11	2	2
12-23	2	0
24 or more	2	4
Total	46	10

N=56

There were few delays in this stage of the permanence process for the known cases. In fact for 79% of the children, this process took five months or less. Within this time the adoption agency would need to allow 28 days for the birth parents to respond to the certificate of notification and so it is not surprising that the most common time taken was more than one month. In fact, in most cases requests were made very soon after this period.

However, for 14% of the children this stage took over one year, and in some cases more than two years. For the two children who were adopted, one case experienced delays as the proceedings appeared to be abandoned and

restarted; and for the other child, the adoption process was changed from pursuing a Freeing Order to an Adoption Order and adoptive parents married after the adoption panel and the case was changed to a joint application.

Table 13 shows the length of time taken by the Children's Reporter to arrange a Hearing and the advice being given. If the birth parents do not agree with the plan for adoption the Hearing must be convened within 21 days of the Reporter receiving the request, if the parents do not object the Hearing must be convened without undue delay. This information was available for 87 children and parents did not object in all cases.

Table 13. Time taken between Advice Children's Hearing requested and advice given

Time taken in days	Number of children - adoptions	Number of children - PROs
21 days or less	42	3
22-31	10	6
32-41	6	4
42 or more	11	5
Total	69¹⁸	18

N=87

In 52% of the cases the Hearing was arranged within the 21 day timescale. A further 18% were held within the next 10 days and for another 18% of the children this process took over 41 days.

It was not always clear from the files what the reasons were for these longer timescales. In one case a Hearing had been arranged within the 21 day timescale and had to be re-arranged, and in two cases it appeared that the adoption agency had not requested a Hearing and this was then requested from the court.

Five of the Hearings that were arranged were then continued for background reports or a safeguarder's report and also for the parent's attendance.

For nine children there were two advice Hearings held over a year apart as proceedings were delayed or changed.

Once a Children's Hearing has been held, the advice from the Hearing is then sent to the relevant Sheriff Court. This must be done with seven days of the Hearing.

Table 14 shows the time taken by SCRA in sending the advice from the Hearing. The date the advice was received from the Hearing was not always available from the court file as sometimes the advice report was not held on file or it was not stamped with the date received. Other times the advice

¹⁸ This will include cases where the parents do not object to the adoption plans.

report was submitted with the petition. Often, the advice from the Hearing had been sent to the court prior to the submission of the petition.

Table 14. Time taken between Children’s Hearing and advice received by the court

Time taken in days	Number of children - adoptions	Number of children - PROs
7 days or less	34	14
8-14	6	1
15-21	0	0
22 or more	12	3
Total	52	18

N= 70

For 69% of the children, the advice from the Children’s Hearing was received within the seven day timescale. For 21% (15 cases), this process took over three weeks. The most common reason for the longer timescales was that the advice was sent with the petition or section 23 report which was submitted by the local authority/adoption agency after this time (10 cases). However, in three cases where there was a delay of three weeks, two months and three months respectively, there were no apparent reasons recorded.

In a further two cases there was a delay of eight months and nine months respectively as the advice had been sent by SCRA to the wrong Sheriff Court. In the first case this did not delay the start of the court process (in appointing the curator ad litem and Reporting Officer) but did hold up proceedings after this by a few weeks. In the second case, there were also delays in submitting the petition and the Hearing’s advice was received just days afterwards.

7. Court processes

The involvement of the Sheriff Courts in permanence proceedings begins when the application for Adoption or another Order is lodged with the court. The applications submitted under the Adoption (Scotland) Act 1978 in this study were for Adoption and Freeing Orders; applications for PROs were made under 1995 Act.

There were five cases in this study where the researchers were able to study the court process for both a Freeing Order and an Adoption Order. As the two Orders were separate processes these cases have been included twice in the tables. Therefore the totals in the tables below may be greater than 100.

Applications for a Freeing Order are made by a local authority or adoption agency, and for PROs the local authority. Applications for Adoption Orders are made by prospective adopters.

Submission of petition and section 23 report

Under the 1978 Act, the petition for an Order should be submitted to the court within 28 days of the advice Children's Hearing¹⁹.

Table 15 shows the time taken between the Hearing and the submission of the petition or application.

Table 15. Time between advice Hearing and submission of petition/application to court

Time taken in days	Number of children - adoptions	Number of children - PROs
Hearing after submission	8	2
28 days or less	27	3
29-56	22	3
57-84	6	1
85 or more	15	12
Total	78	21

N=99

For 10 children the Order application had been submitted to the court and then a Children's Hearing took place afterwards. The reasons for Children's Hearings being continued were outlined above (see discussion surrounding Table 13) though in five cases it was unclear as to why petitions were submitted before a Children's Hearing.

In 30 of the cases the petition or application was submitted within the 28 day timescale. In 59 cases, this timescale was missed. For 27 children there was over 12 weeks in submitting the application, where in eight cases (five PROs)

¹⁹ The 28 day timescale applied in disputed Freeing and Adoption cases. It did not apply to PRO applications or when adoption was agreed by birth parents.

this process took over six months. The longest time between the advice Hearing and submitting the application was one year and five months. There was no reason recorded on file as to this delay.

There were four cases where the petition was submitted twice due to errors in the first application.

In applications for Adoption Orders, the placing local authority adoption agency submits a report to the court about the suitability of applicants and all other matters to do with the welfare of the child, previously known as a section 23 report²⁰. This report is not required for PROs.

In adoption applications, the placing agency could ask for an extension of time from the Sheriff to submit its section 23 report. If the Sheriff granted this then a new date for lodging would be specified. This was known to have occurred in five cases.

Table 16 shows the time taken for the adoption agency to submit the section 23 report from the point of petition submission.

Table 16. Time taken between petition and section 23 report

Time taken in days	Number of children – adoptions	Number of children – PROs
Report submitted before petition	9	-
28 days or less	47	-
29-56	11	-
57-84	7	-
85 or more	10	-
Total	84	-

N=84

In nine cases the report was actually submitted prior to the application for adoption. For 47 children the report was submitted within 28 days. However, for 17 children this process took over eight weeks. In seven cases this process took over 16 weeks²¹. The longest period was eight months.

For all Freeing Orders, however, the report was submitted with the petition or prior to the petition.

Curator ad litem and Reporting Officer

When an application is made, the Sheriff appoints officers of the court to investigate the case and give advice to the court on the child's welfare and best interests; and also to ascertain if the birth parents fully understand the

²⁰ Section 23 of the Adoption (Scotland) Act 1978; now replaced by section 17 of the 2007 Act.

²¹ Three of these cases were within the same local authority.

adoption process and witness their consent if they wish to provide this. These two types of appointments are called curators ad litem (for children) and Reporting Officers (for parents), though often the same person carries out the two roles.

Table 17 shows the time taken for the Sheriff Courts to appoint the curators ad litem and Reporting Officers. The time calculated is that between the receipt of the section 23 report and the appointment of the curators and Reporting Officers for the adoption processes, and for PROs time was taken from the date of the Order application. In all cases the curators ad litem and Reporting Officers for each child's case were appointed at the same time. There was only one case where these roles were carried out by two different representatives and they were still appointed on the same day. Where an Adoption Order was applied for and there had been an existing Freeing Order made, there was no need to appoint a Reporting Officer.

Table 17. Time taken by court to appoint curators ad litem and Reporting Officers

Time taken in days	Number of children – adoptions	Number of children – PROs
Appointed before receipt of s23 report	3	n/a
28 days or less	60	17
29-56	17	0
57-84	1	3
85 or more	3	0
Total	84	20

N= 104

For the majority of children (80), the time taken to appoint the curators and Reporting Officers was within 28 days, and in three cases they were appointed before the receipt of the section 23 report. However, for seven children this process took more than eight weeks. Four times the appointment was delayed by a late Children's Hearing, and two times the reason was unknown. In one case the appointment had to be made three times as the first curator ad litem/Reporting Officer withdrew due to the complexities of the case and the second had a conflict of interests. Overall there were three cases where the curator ad litem/Reporting Officer had to be re-appointed, the other two cases were due to a conflict of interest.

Once the curators ad litem and Reporting Officers have been appointed, they have four weeks to produce and submit reports to the court. Table 18 shows the time taken for them to submit their reports.

Table 18. Time taken to submit curator ad litem and Reporting Officer reports

Time taken in days	Number of children – adoptions	Number of children – PROs
28 days or less	28	5
29-56	39	10
57-84	8	2
85 or more	7	3
Total	82	20

N=102

For one third of the children the reports were submitted within the four week timescale. In a further 49 cases they were submitted within eight weeks. However, 10 cases took over 12 weeks. Reports were normally delayed as the Reporting Officer was unable to contact the birth parents in which case extensions of time were granted by the Sheriff. The longest period taken was nearly five months, which occurred for two PRO children.

There were only two cases where the curator ad litem and Reporting Officer reports were submitted separately. One was for a Freeing Order and the other a PRO. In these cases, the Reporting Officer reports took 10 and 12 days longer.

It was noted during data collection that there was substantial variance between Reporting Officers in how they attempted to contact birth parents. For example, some would make at least two attempts in person at an address whilst others would only post one or two letters.

The curator ad litem’s role is to provide an independent view to the court on whether the interests of the child have been safeguarded (McNeill, 1998). It was relatively rare for the curator ad litem to seek the child’s views. This is perhaps understandable for very young children, however, it was also often the case for older children²².

Court hearings

For the applications in this study under the 1978 and 1995 Acts, the Sheriff fixed a diet of hearing on receipt of the curator ad litem and Reporting Officer reports. Table 19 shows the time taken to fix the date of the court hearing after the receipt of reports.

²² All the children were under 12 years old when their Adoption, Freeing or Parental Responsibilities Orders were made. The child’s formal consent to freeing and adoption was only required for children aged 12 years and over. There was no statutory requirement for a child to consent formally to a PRO.

Table 19. Time between receipt of curator ad litem and Reporting Officer reports and diet of hearing fixed

Time taken in weeks	Number of children – adoptions	Number of children – PROs
Fixed prior to report receipt	10	2
Within 2 weeks	56	12
2 – 3 weeks	4	2
More than 3 weeks	12	2
Total	82	18

N=95

The majority of court hearings (80 children) were fixed within two weeks of the receipt of reports. For 14 children, this process took over three weeks. There was no reason recorded in the court files as to why this process took longer in some cases than it did for others.

Table 20. Time between receipt of curator ad litem and Reporting Officer reports and diet of hearing held

Time taken in days	Number of children – adoptions	Number of children – PROs
28 days or less	32	10
29-56	43	11
57-84	5	0
85 or more	2	0
Total	82	21

N=103

There were 42 children whose first court hearing was held within 28 days of the court receiving the curator ad litem and Reporting Officer reports. For a further 54 children the hearing was held within 56 days. However, for seven adopted children this process took 57 days or more, including two children where it was at least 85 days. For the latter two children there was no apparent reason for the delay in one case and for the other, the case was continued twice, once to allow the birth parents to pursue legal aid and then again due to their agents availability.

Parental response

The main reason for a lengthy court process in the permanence cases was when birth parents opposed the applications. Some parents did not consent to the application but they did not formally oppose the application or attend court. Others lodged objections and then later consented. In some cases, one parent consented to adoption and the other did not. Some parents had died prior to the proceedings or during the time of the court process or others did not have parental rights or responsibilities (PRR). Table 21 shows responses by the birth parents.

Table 21. Parental response to permanence application

Response	Adoptions		PROs	
	Father	Mother	Father	Mother
Consent	11	17	3	2
Dispute and later consent	2	4	0	1
Formally dispute	9	26	0	2
No consent or dispute	20	28	8	12
Deceased	3	1	1	2
Whereabouts unknown or no PRR	33	2	8	1
Total	78	78	20	20

N=98

Most commonly the response to the applications, where the parent was known, was to neither dispute nor consent. Within the adoption applications, this applied to 28 mothers and 20 fathers. There were a high number of fathers whose whereabouts were unknown or who did not have parental rights or responsibilities. This was the case for 42% of the adoptions and 40% of the PROs. Overall, for all of the children, 19 mothers formally consented without dispute to the Adoption or PRO, as did 14 fathers.

It was not possible to determine any response in one PRO case and for one adoption parental consent was dispensed with as the parents had significant mental illness.

Higher number of court hearings

As outlined above, for some children the court process took a longer period of time and required a higher number of court hearings as the birth parents disputed the application and lodged this with the court.

For 21 of the adopted children either proof or pre-proof court hearings were held. These were not used for applications for PROs. The shortest period of time between the first hearing and the Order made, where proofs or pre proofs were used, was just over three months. The longest time was nearly 16 months and the average was 8.5 months.

Proof hearings or hearing diets could also be continued. This was due to the time needed for further consideration and was found to occur for a number of reasons: consider further evidence; parents were pursuing legal aid; joint minutes, witness lists or productions were to be lodged; where there was a need to consider issues of confidentiality; for parents to appear; to allow for further attempts to issue certificate of intimation to parents; to clarify whether an adult had parental rights and responsibilities; bad weather (island location); for legal representatives to attend; for statement of disputed issues or answers to be lodged; for further legal instruction; preparation of witnesses and productions; for parents to attend in order to give consent; to receive advice from a Children's Hearing; parents' legal representatives withdrew; and legal representatives unable to contact parents.

8. Overall timescales

This study has shown that there are a number of key processes in the achievement of permanence for children and these details have been provided. The following discussion shows the overall timescales for four main stages; contact with services, permanence being decided (usually by a LAC review), petitions and applications submitted and Orders granted.

Table 22. Time between permanence decided and first application submitted

Time taken in months	Number of children – adoptions	Number of children – PROs	Number of newborns - all
Less than 6	7	1	2
6-11	19	2	15
12-23	37	3	23
24-35	10	4	2
36 or more	4	11	1
Total	77	21	43

N=98

For 29 children, there was less than one year between permanence being decided and an application submitted in court. For 40 children this process took between 12 and 23 months and for 29 children it took more than 24 months. For 15 children, there was over 36 months between permanence being decided and an application submitted to the court, this included one newborn who went on to be subject to a PRO.

All Freeing Order applications were submitted within 24 months of permanence being decided.

Table 23. Time between petition or application submitted and Order granted

Time taken in months	Number of children – adoption orders	Number of children – PROs	Number of newborns - all
Less than 6	42	18	20
6-11	29	3	19
12 or more	13	0	5
Total	84	21	44

N=105

For 60 out of the 105 cases, the court process was completed within six months. In 13 cases the process took more than 12 months, which included five of the newborn group.

All of the PRO applications were made within 12 months, with 86% completed within six months.

In the five cases where a Freeing Order and Adoption Order were both recorded, the Adoption Order was progressed quickly after the Freeing Order.

For four children this took two months or less, and one child just under four months. However, the time period between the Freeing Order and the adoption petition being submitted was four months for two children, 10 months for one child and 11 months for the further two children.

For 23 of the children who had a Freeing Order granted, the study was able to follow up on their cases (through Children’s Reporters and social workers) and a date was known as to when an Adoption Order was granted. For two children who had received a Freeing Order it was known that permanent fostering had subsequently been decided. One further child had moved to England and for two children adoption petitions had been lodged in the summer of 2010 and their final status was unknown. There was no information available on subsequent adoption for six of the children.

Table 24 shows the time taken between permanence being decided and an Adoption Order or PRO being made.

Table 24. Time taken between permanence being decided and Adoption Order or PRO

Time taken in months	Number of children – Adoption Orders	Number of children – PROs	Number of newborns – all AO and PRO
Less than 12	2	1	1
12-17	9	2	6
18-23	14	3	9
24-35	27	2	17
36-47	10	7	3
48-59	2	2	0
60 or more	2	4	1
Total	66	21	37

N=85

There were three children in the study where there were less than 12 months between permanence being decided and their final Order granted. For 11 children, this was achieved within another six months. These cases were spread across Scotland. The three cases where there were less than 12 months for the Order to be granted were from Glasgow, Edinburgh and Highland; those that took 12 to 18 months were from Edinburgh (two), Glasgow, East Ayrshire, North Lanarkshire, Dumfries, East Lothian, Aberdeen, Perth (two), and Moray.

The most common time taken between permanence being decided and the Order granted was between 24 and 35 months. This was the case for 29 children, including 17 of the newborns.

For 27 children (32%) this process took at least 36 months, and for six children, including one newborn (PRO), this took at least 60 months.

The overall time taken for these children in achieving permanence can be calculated from the time the children first started receiving an input from services to the time the Adoption Order or PRO was made.

Table 25 shows the time taken between the first involvement of services, due to there being concerns about the birth family, to the final Order being granted. Data were available for 83 children.

Table 25. Time between first contact with services and Adoption Order or PRO

Time taken in months	Number of children – Adoption Orders	Number of children – PROs	Number of newborns – all AO and PRO
Less than 12	0	0	0
12-17	3	0	3
18-23	4	0	4
24-35	15	0	13
36-47	15	2	10
48-59	12	0	3
60 or more	18	14	5
Total	67	16	38

N=83

Table 25 shows that there were seven children who achieved permanence within 24 months of service intervention. All of these were from the newborn group. For a further 32 children this process took up to 48 months. This included 23 children from the newborn group. Out of these 23 children, one had a single placement in this time, 19 children had experienced two placements and three children had experienced three placements.

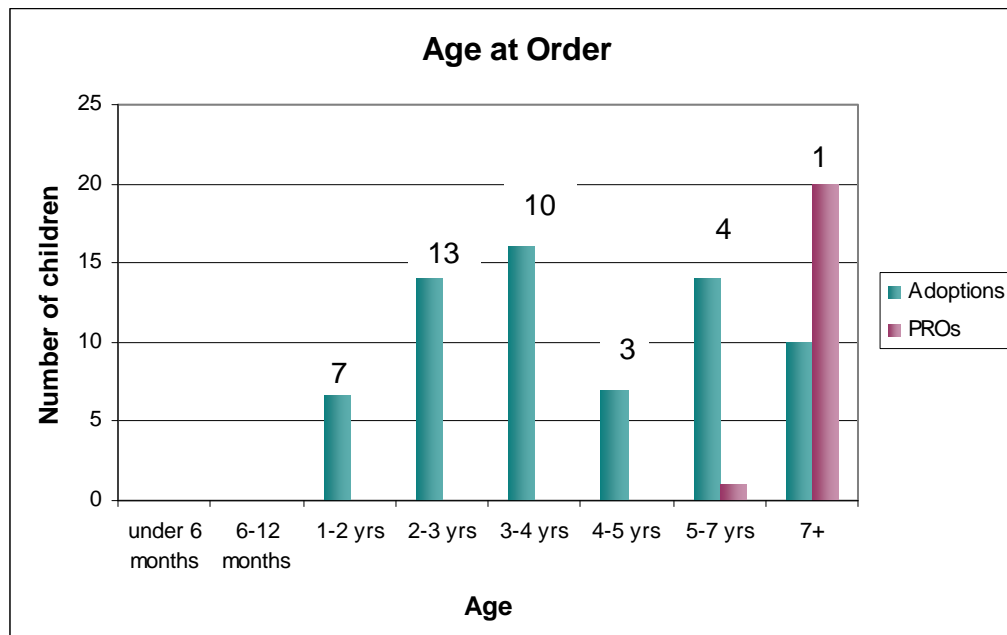
There were 44 children (53%) who had received input from services for over 48 months before achieving permanence. Eight of these children had been assessed for risk at birth. For 39% (n=32) of the children this process took more than 60 months.

The shortest time taken for an adoption was 12 and a half months. This child had also had a Freeing Order. The longest time taken for a child to achieve permanence through adoption was nine years and four months.

The shortest time for a child to achieve permanence through a PRO was 39 months. However the longest time taken was 10 years and 10 months.

The ages of the children at the time of their Adoption Order or PRO are shown in Figure 4. The numbers shown above the bars are the number of children who were in the newborn group.

Figure 4. Age at Adoption Order or Parental Responsibilities Order



Total N= 89

Newborns N=38

There were seven children whose Order was granted when they were one year old. All of these children had been assessed at risk at birth. A further 14 children were two years old, with 13 of them assessed at risk at birth.

Sixteen children were three years old and seven children were four years old, three of whom had been assessed at birth.

There were 15 children who were five or six years old and a further 30 children who were seven years old or more.

Out of the 38 children whose ages were known from the newborn group, 21% were four years old or more when permanence was achieved.

9. Reasons for permanency and causes of delays

Information was gathered on the reasons why the children were identified at risk and became accommodated and the impact this had on them. Reasons for delays in the permanence process were also examined. This is given here to provide contextual information to the main analysis on the permanence process. Four issues are discussed:

- Parents ability to care;
- Attachment and contact;
- Decision making; and
- Delays.

Each issue is discussed for children who were adopted (excluding the pre-birth/birth group), children assessed at risk before or at birth, and children with PROs. These three groups are considered separately as there are differences in how they experienced these issues.

PARENTS ABILITY TO CARE AND CONTACT WITH CHILD

Adopted children

Parents' ability to care

The lives of these children when with their parents were characterised by neglect, extremely poor home conditions, parental drug and/or alcohol abuse, domestic violence, parental mental ill-health, and physical abuse of the child and/or siblings. Many parents were unable to put their child's needs before their own and to keep the child safe at home and safe from other adults.

The levels of neglect that many of these children suffered directly affected their health. Often they had not been adequately fed and had not received essential medication. Others were injured through unsafe home conditions, or had unexplained injuries. In some cases, children had received so little care that they did not know how to feed themselves, or how to sleep lying down as they had always been strapped in a buggy at night, neither did they know how to respond to affection.

These children had often been present during their parents' drug taking and drinking, and during domestic violence incidents.

Attachment and contact

Prior to being identified for adoption, most of these children had little or no contact with their parents. The main reasons for this were parents persistently failing to attend contact visits or not wanting to have contact with the child.

For many of the children, contact with their parents after being placed away from home was distressing and had detrimental effects on their behaviour and emotional welfare. Some children had no attachment to their parents and some stated that they did not want to see them. These were often

considerations by professionals and Children's Hearings to reduce or cease contact.

In a minority of cases, there were legal reasons why a child did not have contact with his/her parents, for example: condition of parent's bail conditions, Non-Disclosure Order, No Contact Order, etc. These conditions were usually put in place to protect the child from the risks posed by his/her parents.

Children assessed as at risk before or at birth

Parents' ability to care

There was an assessment pre-birth or shortly after birth for 44 of the children. There were usually a complex range of factors which caused professionals to be extremely concerned for the welfare of these children in their parents care. The main risks facing these very young children were different to the other children in this study.

The two most common concerns were related to one or both parents' drug misuse, commonly heroin addiction (25 children) and/or the risks of violence and physical or sexual abuse to the child from adults (23 children). In some cases, children faced both these risks.

Risks to safety of child from abuse were usually identified from older siblings being physically and/or sexually abused by fathers or other males and sometimes also by mothers. Aggressive behaviour by parent(s) in the hospital when the child was born also raised concerns for the safety of the child.

Other concerns were parent(s)' alcohol misuse, mental health and domestic violence, and these three factors were often interlinked and also linked to drug addictions. Homelessness or poor home conditions were also considerations in the ability of parents to provide adequate care for their child. In four cases, it was parents' learning disabilities that were one of the main concerns about their ability to care for their child.

Attachment and contact

In 33 cases, parents failed to continue contact with the child after birth. Usually contact visits started and attendance fell away with parents missing appointments or simply refusing to see the child. These children had little or no attachment to their parents(s).

In other cases, there were plans to rehabilitate the child with his/her family or to maintain contact. None of these were successful and there were a variety of reasons for this: parents regularly missing contact meetings; substance misuse; lack of bonding with child; custodial sentences, etc. These contacts and/or rehabilitation attempts were often detrimental and distressing to the child.

Parental Responsibilities Orders

Twenty one children were subject to PROs. One of these children was assessed at risk at birth.

Parents' ability to care

The backgrounds to these children coming to the attention of services were characterised by very poor home environments and neglect. There were concerns in many cases about the family home being unsuitable for children, and these were mainly about extremely poor hygiene (rotting food, excrement on floors and walls, urine soaked beds, etc.) and in some cases the presence of drugs and drug equipment. Linked to this was neglect, examples include children reported as hungry and looking in bins at school for food, not being properly dressed, suffering chronic head lice, parents not keeping medical appointments for the child and the child missing school or nursery.

Attachment and contact

Some children with PROs continued to have contact with their parents or with other family members (siblings, grandparents). For some, this was because the child wanted to maintain contact with their birth family – for example, they liked seeing and spending time with their mum or siblings, others worried about their parents and wanted to see them to make sure they were okay.

Many had no contact with their parents or wider family. In most cases, contact had been terminated several years before the PRO was made. Reasons for this included the detrimental effect that contact and the anticipation of contact had on the child, parents not keeping appointments or not wishing to see the child, and parents who posed a risk to the child.

THE PERMANENCE PROCESS - DECISION-MAKING AND DELAY

Adopted children

Decision-making process

There was an emphasis on rehabilitation with birth parents or other family members as this is a statutory obligation for local authorities and required for assessments. However, this was often explored until not considered viable. Throughout this, contact continued which in many cases had a detrimental impact on the child. Contact visits sometimes appeared to be used to support the case for permanence, for example failure of the parent to attend and/or observations on the attachment of child to his/her parent(s).

Delays

Attempts at rehabilitation were a common factor in delays in the decision to seek adoption. Most of these failed. There were some cases where parent(s) had made progress and appeared to be on track for their child being returned to their care. Unfortunately, they often lapsed (particularly where substance misuse was a problem) and rehabilitation was set back. This could happen several times, each time delaying any formal proceedings for permanence.

There were four adopted children where reports on the children stated that there were delays in finding adoptive parents due to the needs of the child. In three cases this was related to developmental delay in the child or mental health factors of the birth parents. Two of these children were in the newborn group. There was one further adopted child who's placement suffered delay due to being part of a large sibling group.

Children assessed as at risk before or at birth

Decision-making process

Most of these children had never lived with their birth parent(s) and some had one or more siblings who had been adopted or were in care. Despite this, plans for rehabilitation involved parenting assessments to see if the parents could care for their child. Contact visits were also used to assess whether rehabilitation was feasible.

Once permanence had been decided and rehabilitation ruled out, members of the child's birth family were often assessed to see if they could provide a permanent placement, only when they were excluded was the decision made to formally seek adoption.

Delays

Birth parent(s) were given many opportunities to demonstrate that they wanted their child and were able to adequately care for them. Birth parent(s) frequently missed or cancelled contacts and meetings about their child. For example, one child had experienced four failed attempts at rehabilitation before adoption was actively pursued. It was evident that for 33 out of the 44 newborns that parents were not keeping up with contact arrangements, either initially or in the long term.

Occasionally a cause of delays was finding suitable adoptive parent(s) for the child. This was for a variety of reasons, such as: potential adoptive parents being put-off adopting a child because of their concerns about the birth family (e.g. on-going contact, harassment, etc.), and the 'fight' they may have in the court process when the birth parents withhold their consent; for some children it was difficult to find adoptive parents because of their health and/or the potential to develop health problems later in life. There were three children where it was known from reports that their permanence was delayed due to the needs of the children, two were adopted, one had a PRO and is discussed below.

Parental Responsibilities Orders

Decision-making process

PROs were usually considered because of the child's age and/or need to maintain contact with members of their birth family. However, seven of the 21 PRO children had been originally identified for adoption (one of whom was identified at risk pre-birth) and PROs were eventually sought instead. This was because of delays in the process which meant that adoption became no longer viable, either because an adoptive family could not be found or the

child was now of an age where adoption was not considered to be in their best interests. Three of these children (including one newborn) had developmental or behavioural needs that effected the adoption plans.

Delays

Delays in the PRO process were rarely due to the child's parent(s) opposing the permanence plans. Instead, delays could be the result of attempts to keep siblings together; and/or parent(s) missing appointments. It was evidenced in one case that a child who was part of a larger sibling group faced delays because of the size of the group. However, in this case the process was delayed as the foster carers who went on to foster for the long term had to re-register and be re-assessed for long term care.

10. Cases which were very delayed or never achieved permanence

This section looks at the cases of 15 children who, although identified as requiring permanence, either experienced lengthy delays or (at the time of writing) have yet to have legal measures in place to safeguard their futures. These cases are in addition to the main sample of 100 looked after children who have PROs or have been adopted. They are presented here to highlight where delays can occur in the process, and as a comparison to those where permanence was achieved.

The 15 cases were suggested by Authority Reporters in four local authority areas. Information was obtained from the case files held by these SCRA teams. While these cases are not therefore representative of Scotland, no assumptions are made here that such cases are unique to these four areas.

Table 26. Overview of very delayed cases – ages of children

	Age at first contact with services	Age at first placement	Age when permanency first identified
At birth	9	3	1
Under 6 months	2	2	2
6 – 12 months	0	1	0
12 months – 4 years (inc.)	2	3	6
5 – 10 years (inc.)	2	6	6

N=15

Table 27. Overview of very delayed cases - timescales

Time taken in months	Time from first contact with services to permanence identified	Time from permanence identified to court proceeding or to October 2010
Less than 12	3	0
12-17	3	2*
18-23	2	5 (*1 child)
24-35	2	2
36-47	1	1*
48-59	2	3
60 or more	2	2

N=15

* court proceedings underway or concluded

Thirteen had been on the CPR at least once in their lives, and eight had been subjects of CPOs.

Causes of delays

Most of these children were known to services from an early age – 11 when they were under six months old. Permanence was first identified when most

were over a year old (12 children), and (at the time of writing) court proceedings are underway or concluded for only four of the 15 children, three of whom were one year old and one who was three when Orders were made and/or Supervision Requirements terminated. The 11 remaining children are one year old (one child), two years old (two children), between five and 10 years old (six children) and 11 years old (two children)²³.

While each child's case is unique, there are some factors that occurred in several cases which caused delays in decisions being made on permanence (some cases had more than one of these delays):

- The Reporter's decision in six cases when first referred was to arrange a Children's Hearing. This means that for nine children there were subsequent referrals to the Reporter before Supervision Requirements could be made. Seven of these nine decisions were made prior to introduction of SCRA's Decision Making Framework (SCRA, 2005).
- In six cases delays occurred in the assessment of parents' and other family members' ability to care for the child.
- In four cases, it was rehabilitation attempts with birth parents that caused delays.
- For three children their placement with their adoptive parents broke down. This was either because the adoptive parents changed their minds or were unsuitable (e.g. in one case serious child concerns emerged about a prospective adoptive father). For one child no adoptive parents could be found.
- And for six cases there were no apparent reason (from SCRA's case files) for the delay in the local authority seeking permanence for the child.

²³ At October 2010.

11. Children's stories – case studies

Case studies are provided to help illustrate what was happening to the children throughout the permanence and adoption processes. To preserve confidentiality some details have been changed and the names used are pseudonyms. Timescales and decisions have not been changed. The information discussed is up to October 2010.

Typical cases

Four case studies from the main sample of 100 cases are provided to show typical pathways through the permanency and adoption processes.

Billy

Billy has been known to services since his birth. Social work became involved with his mother because of her neglect of his older brother. There were concerns that she would also not be able to care for Billy. He was placed with foster carers at birth under section 25 of the 1995 Act.

He was referred to the Reporter when he was five days old. The Reporter made the decision to arrange a Children's Hearing. The Hearing was held two months later and made a Supervision Requirement with the condition that Billy stayed with his foster carers.

Permanence was first identified when he was three months old. A relative was assessed as a permanent carer and was found not to be suitable.

Billy lived with his first foster carers for the first nine months of his life, and developed a strong attachment to them. He was never returned home. His mother failed to attend contacts and has not seen Billy since he was two months old.

Adoption process

Billy was matched with his prospective adoptive parents when he was eight months old, and moved to live with them a month later.

The section 23 report and advice from the Children's Hearing were submitted to the court as part of the petition for the Adoption Order. The Sheriff appointed the curator ad litem the day the petition was received. A Reporting Officer was not required as a Freeing Order had been made when he was a year old.

The curator ad litem visited Billy at home with his prospective adoptive parents and reported that he had bonded well with them and was relaxed and happy in their care. Billy was one year old and the curator ad litem considered him too young to express his views.

The curator ad litem produced his report within four weeks. The Sheriff set the date of the preliminary court hearing within a week of receiving the

curator's report. The Adoption Order was granted a month later at this court hearing when Billy was 16 months old.

It took 16 months from Billy's first contact with services to when his Adoption Order was made.

Jack

Jack was born with severe withdrawal symptoms because of his mother's drug and alcohol use during pregnancy and he spent the first month of his life in hospital. A CPO was granted by the Sheriff when Jack was one month old, and he was moved from hospital to foster carers.

Jack was referred to the Reporter when he was one month old on 'lack of parental care' grounds. Due to his young age the Children's Hearing referred the grounds to the Sheriff to be established. Place of Safety Warrants were made to keep Jack with his foster carers until the grounds were established. A Supervision Requirement was made when he was three months old.

A LAC Review first identified permanence and recommended adoption when he was nine months old. There were numerous permanence planning meetings over the next year until permanence was finally decided.

Jack lived with his first foster carers until he was two years old. He never returned home. Services tried to encourage contact between Jack and his mother. His mother often missed contacts and when they did happen, Jack became distressed at being away from his foster carers. Contact with his mother was terminated when he was 18 months old.

Adoption process

Jack was matched with prospective adoptive parents shortly after his second birthday and he moved to live with them a month later.

A Children's Hearing was held and advice submitted to the court a month before the petition for the Adoption Order was lodged. The local authority submitted the section 23 report a month after the petition.

The curator ad litem and Reporting Officer were appointed the day after the section 23 report was received. The Reporting Officer contacted both birth parents who did not provide their consent to the adoption. The curator ad litem considered at three years old that Jack was too young to express a view.

It took two months for the curator ad litem and Reporting Officer reports to be produced. Two days later after the Sheriff received their reports he set the preliminary court hearing date. Jack's birth parents opposed the adoption. The Sheriff assigned a pre-proof hearing and this was re-arranged to allow the parents more time to obtain legal representation. It took six months from the first to the final court hearings to when the Adoption Order was made.

Jack was three years old when the Adoption Order was made, and it had taken three years from his first contact with services to the Order being made.

Sophie

Sophie's nursery school raised concerns about her being neglected when she was three years old. Her mother was in a relationship with a registered sex offender which was characterised by extreme domestic violence which Sophie had witnessed. Sophie was placed on the CPR under the category of Physical Neglect and moved to live with a relative. She was referred to the Reporter on 'lack of parental care' grounds. A Children's Hearing made a Supervision Requirement with the condition that she lived with her relative.

The placement with her relative was terminated after six months when it was discovered that she had been physically abusing Sophie. Sophie was moved to foster carers and this placement broke down after seven months. She was moved to her second foster carers where she lived for 16 months. Sophie was now almost six and reported as being desperate to be part of a family.

Sophie never returned to her mother's care. By the age of six she refused to have any contact with her birth family.

A LAC Review first identified long-term foster care or adoption when she was six. There were numerous adoption and permanence meetings over the next 18 months until prospective adoptive parents were identified.

Adoption process

Sophie moved to live with her prospective adoptive parents shortly before her seventh birthday.

Children's Hearing's advice was received by court two months before the petition was lodged. Four months later the section 23 report was produced. The curator ad litem and Reporting Officer were appointed by the Sheriff within two weeks of the petition being lodged.

It took six weeks for the curator ad litem and Reporting Officer reports to be produced. Sophie was seven when the curator ad litem visited her at her new home and he did not seek her views as he considered her too young.

The first court hearing was held two months after the curator and Reporting Officer reports were submitted. Because there was no parental consent, a proof was required to hear evidence and witnesses, there were a number of pre-proof and proof hearings and it took a further six months before the Adoption Order was made and the Supervision Requirement terminated.

Sophie was eight years old when the Adoption Order was made. It had taken five years from her first contact with services to the Order being made.

Joe

Joe's family had been known to services since before he was born due to his two older siblings being in foster care. Joe's first formal contact with services was when he was 2.5 years old when he was placed on the CPR under the category of Physical Neglect and moved to short-term foster carers under section 25 of the 1995 Act. His mother had drug and alcohol addictions and mental health problems. She found it difficult to care adequately for Joe and keep him safe.

At this time he was referred to the Reporter under grounds of 'lack of parental care' and 'living in same household as a victim of a schedule 1 offence'. The Reporter decided to arrange a Children's Hearing which was held two months later.

Joe stayed with his first foster carers for six months until a Supervision Requirement was made with condition that he resided with his second foster carers. He lived with these foster carers for next 3.5 years. Joe never returned to his mother's care

A LAC Review recommended permanence when he was four. A relative was assessed as a long-term carer and was found not to be suitable. After a year, a second LAC Review decided to place Joe for adoption. Joe was matched with prospective adoptive parents 1.5 years later and moved to live with them within two months.

Adoption process

Joe was 6.5 years old when he moved to live with his prospective adoptive parents.

The advice Children's Hearing was held four months before the petition. The section 23 report was submitted one month in advance of the petition.

The curator ad litem and Reporting Officer were appointed when the petition was lodged, and then withdrew. It took a further four months to appoint another curator and Reporting Officer. The Reporting Officer met Joe's birth mother who gave her consent to the adoption; his father did not have parental responsibilities or rights. The curator ad litem did not ask Joe for his views as he considered at seven that he was too young.

It took two months for the curator ad litem and Reporting Officer to produce their reports, and two weeks after the court received these reports the Sheriff granted the Adoption Order and terminated Joe's Supervision Requirement.

Joe was seven years old when the Adoption Order was made. It had taken almost five years from his first contact with services to the Order being made.

Very delayed cases

Four case studies, from the 15 discussed in Chapter 10, are presented to illustrate the issues that caused delays in the pathways of these children through the care system.

Ellie

Ellie was placed on the CPR at birth under the categories of risk of Physical Neglect, Emotional and Physical Abuse. She was placed with her first foster carers at birth under section 25 of the 1995 Act, and referred to the Reporter on grounds of 'lack of parental care'. At two months old she moved to her second foster carers and a Supervision Requirement was made with a condition that she resided with them.

Ellie remained with her foster carers and was never in her mother's care, although she initially had regular supervised contact with her.

A LAC Review recommended permanence when Ellie was five months old. Seven months later, the Adoption/Permanency Panel recommended that adoption should be pursued and this was the decision of the Agency Decision Maker one month later. At this stage Ellie was 13 months old.

Prospective adoptive parents were identified when Ellie was 18 months, and after two months they changed their minds and decided not to adopt Ellie.

A Matching Panel was held for second prospective adoptive parents, and adoption proceedings are currently underway. Ellie is now two.

Jason

Jason was two years old when he and his siblings first came to the attention of services. The children were at risk from poor home conditions and their parents' association with suspected sex offenders.

Over the next three years, Jason and his family had limited contact with services until the risks to the children escalated and they were placed on the CPR and CPOs were made. A Children's Hearing made a Supervision Requirement with condition that Jason lived with foster carers.

Shortly after being placed with foster carers, Jason's contact with his parents was stopped as it was causing him extreme distress.

A LAC Review recommended permanence and this was supported by a Children's Hearing. However, when the Adoption/Permanency Panel considered Jason's case six months later, it did not endorse this recommendation and asked for a further review of Jason's situation and that social work produce a firmer plan.

Two years later a permanent placement was found and Jason was moved to his new carers. This placement broke down after a few months and Jason was moved to his third foster carers. By this stage, Jason's two younger siblings had been adopted and Jason couldn't understand why he was the only one who did not have a 'forever' family and why he couldn't see his siblings. Jason is now eight years old.

Samantha

Samantha's family has had long involvement with services and two of her older siblings were adopted before Samantha was born.

When Samantha was four, she was referred to the Reporter on grounds of 'lack of parental care'. The Reporter decided that compulsory measures were not required, and Samantha was placed with foster carers on a voluntary basis for a short period. She was returned to her mother's care where she remained for three years.

When she was six, her school raised concerns about her poor attendance and that when she did attend she was often very hungry and begged food from other children, she was inadequately dressed and had chronic head-lice. Her mother's drug use had become more problematic. Samantha was placed on the CPR, a CPO was made and a Children's Hearing made a Supervision Requirement with the conditions that Samantha lived with foster carers, and she was to have no contact with her mother. She remained with these foster carers for the next three years.

At this time a LAC Review recommended permanency. Eight months later the Adoption/Permanency Panel's recommendation endorsed this decision which was supported by a Children's Hearing.

Finding a permanent placement proved difficult and after 18 months the Adoption/Permanency Panel recommended that the local authority should pursue a PRO instead of adoption. Samantha was moved to new foster carers where it was hoped she'd remain permanently. She was 10.

A year later, the legal process for permanence had still not started. Samantha was still with her foster carers and very clear that she wanted to stay with them and not return to her mother. She is now 11 years old.

Caitlin

Caitlin was born suffering from neonatal withdrawal syndrome due to her mother's heroin use during pregnancy. A CPO was made at birth and Caitlin placed with foster carers. Two months later she was moved to her mother's care where she remained for six months.

A second CPO was made to secure her safety and Caitlin was moved from her mother to new foster carers. She lived with her second foster carers for

two years before being returned to her mother again. This only lasted for three months and a third CPO was made to remove Caitlin to her third foster carers. She was three years old and had experienced five moves.

At this time permanence was identified and parallel planning started. After a year the Adoption/Permanency Panel considered Caitlin's case and didn't make a recommendation. Caitlin was moved to her fourth foster carers.

A year later, Caitlin was five, and her foster carers asked that a PRO be sought so that she could stay with them permanently. This was not approved by the Agency Decision Maker. Instead over the next two years various family members were assessed, and all either withdrew or were not suitable. Caitlin's foster carers still wanted to keep her permanently.

The local authority supports Caitlin's foster carers and (at the time of writing) no application has been made to pursue legal proceedings. Caitlin is now seven and is very happy with her foster carers and wants to live with them and also to have contact with her mother.

12. Areas for improvement

For the majority of children it took over two years from when they were first involved with services to when they achieved permanence through adoption or PRO. In only seven cases did this process take less than two years, these children were all identified as at risk before or at birth (newborn group). The shortest time was 12 and a half months and the longest 10 years and 10 months (Table 24).

Early separations, within the first six months of a child's life, are thought to be less damaging than later separations. Between the ages of six and 18 months the loss of a prime attachment figure can lead to considerable distress and 'multiple breaks can lead to the child being virtually unable to make true relationships' (Jones *et al*, 1991). If separation from birth family is deemed necessary, this should be carried out within the first six months of life and a permanent placement found as soon as possible (Ward *et al*, 2006; Davidson & McKenzie, 2010).

For all the 100 children in this study it took over a year for the Orders to be made to secure their futures. For 16 children (including only one newborn) it took less than six months between their first and final placements and, with one exception, this was because the final placement was made before permanence was decided (Table 10). Eleven children were in their final placements within a year (including nine newborns), and for the remainder it took over a year (including 30 newborns); for seven of these children it took over four years. However, 47% of the children who were assessed at risk before or at birth were three years or over before the Order was made. Research by Biehal *et al* (2009) has shown that a key aspect to the long-term stability of children's placements, is finding a permanent placement at an early age, at least by three years of age. This study therefore supports previous findings that many children remain in care for long periods before decisions are made to secure their futures (Cabinet Office, 2000; Social Work Inspection Agency, 2010).

Children who go on to be adopted form a small minority of children who are looked after. Over 9,000 children are now looked after away from home and their numbers are growing (Scottish Government, 2010). These children are subject to the same decision making processes within local authorities and the Children's Hearings System as those who go onto be adopted. They are also similar in the numbers of placements they receive (Scottish Government, 2010a) (Table 8). The Social Work Inspection Agency (2010) identifies that planning for permanence should be the primary objective for all placements and should begin as soon as possible; and that there is evidence that services are not achieving long-term security for children quickly enough.

If, as this research has found, there are delays in decision making for those children who go on to be adopted, including babies accommodated at birth, we should consider whether this is also the case for other looked after children.

Decision making and implementation

First decision on permanence away from home

For 35 of the 100 children it took over two years from when they were first identified as at risk to an initial decision being made on permanence.

Newborn group - Forty-four of the children were assessed for risk either before they were born or at birth; 24 were accommodated at birth. Once placed only six of the 44 children were ever returned home. In 27 cases, parents failed to continue contact with the child after birth. In 14 cases the decision for permanence was made within six months. Fifteen cases took six to 12 months, and 14 cases took over a year for this first decision to be made.

For all the children in the sample, 45% of the parents had already had a another child(ren) separated from them by being adopted or in foster or other form of care, before decisions were made about permanence for the child in this study. For the newborn group, 10 had an older sibling adopted and 23 had older siblings already in foster or kinship care before they were born (some had siblings in both categories).

The main causes for the length of time were parenting assessments and rehabilitation attempts with birth parent(s) and/or other relatives. None of these were ultimately successful. In some cases, putting the child in the care of parent(s) or other relatives put the child in danger.

The length of time in decision making for these children brings into question the use and validity of assessments made. There was great variation in decision making timescales for these children, despite the levels of concerns surrounding siblings and the children in question. A much faster decision making process should be found for children where parents have been separated from one or more children already. There also needs to be a greater consideration of rights and needs of children.

There is a need for discussion and guidance on rehabilitation with birth parents. This needs to balance the rights of parents and the child. Consideration should be given on the level of risk a parent presents to their child from what is known about their history of care of their other children, if other children have been adopted or accommodated, and their offending history (especially offences against children).

Application to court

The period between permanence first being identified to the application to the court for the Order was one of the main areas of delays in the permanence process.

In 29 cases it took less than a year between permanence being decided and the application to the court for the Order. Most cases took longer than this: - 69 cases took more than a year and, of these, 29 cases took longer than two years.

Management of the permanence process

There is a contrast between the prescribed timescales for all aspects of the court process and the absence of such timescales or guidance on much of the permanency process up to this stage (Annex 2). This was the case under the 1978 Act and has not changed much.

The main delays in the permanence process for looked after children lie in the decision making processes leading to a decision on permanence. Without standards to aim for or provide comparison it is difficult for local authorities and other agencies to assess their performance and take action to improve it. This affects not only overall performance and also that for individual children whose cases can be left to drift, in some cases for years. For example, in this study, the length of time to decide permanence ranged from a few months to seven years (Table 6).

The Adoption Policy Review Group (2005) recommended that '*there should be statutory timescales between adoption/permanence panels and court applications and clear guidance from the Scottish Executive (or the Care Commission) about other parts of the process*'. This was supported by the then Scottish Executive (2005b). There are statutory timescales between adoption panels and court applications and detailed and comprehensive guidance has been produced (Scottish Government 2010b), and this does not include timescales for decision making on the other parts of the permanency process. The 2007 Act guidance does recognise that '*when action is taken to remove children from such situations through child protection procedures it is imperative that they are able to experience, as soon as possible, all the features of a permanent care placement*'; it does not prescribe timescales as it was considered that these alone do not prevent all delay and it is '*confidence in the quality of processes is the key to minimising delay*'. It could be argued that part of the quality of a process is that it is timely, and prescribed timescales offer an opportunity to assess and manage this.

There is a role here for external scrutiny of the care planning and adoption processes. From 1 April 2011, three main bodies responsible for inspecting and regulating child protection in Scotland²⁴ will merge into a new body – Social Care and Social Work Improvement Scotland (SCSWIS). This offers opportunities for more co-ordinated scrutiny of local authority social work in terms of care planning and adoption services.

There is no national overall record of children who have been adopted or have been subject to other forms of permanence proceedings. This made identifying children for this research difficult, and more importantly it means that there is no means at a national level to assess the performance of the permanence and adoption process. The last detailed statistics on adoption in Scotland date from 2003 (Scottish Executive, 2004). Whilst it is essential to preserve the confidentiality of adoption cases, anonymised information could be used.

²⁴ Social Work Inspection Agency, Care Commission and Her Majesty's Inspectorate of Education

There is a need for standards and management information in relation to all stages of the permanence decision-making process. This would allow assessment of performance at a local authority and national level.

Placements

Nearly half the children (n=44) had experienced three moves by the time they were finally placed with prospective adoptive parents; over a quarter had four moves and one child had nine moves. The experiences of multiple placements for the children in this research compared to other children who are looked after away from home are not so dissimilar. Thirty one per cent of looked after children have experienced three or more placements (Social Work Inspection Agency, 2010).

There are concerns about the damage caused to children's ability to develop secure attachments where they have experienced multiple placements; and it has been suggested by other commentators that local authorities are causing harm to children by ignoring the importance of attachment by placing them in multiple placements (Monck *et al*, 2003).

47% of the children, in this study, who were assessed at risk before or at birth were three years or over before the Order was made. Research by Biehal *et al* (2009) has shown that a key aspect to the long-term stability of children's placements, is finding a permanent placement at an early age, at least by three years of age.

There is a National Performance Indicator of '*looked after with 3 or more placements*' which inspection agencies use to assess the performance of local authorities. This is the only performance indicator for this important aspect of services for children, and there is significant variation in performance across Scotland (Social Work Inspection Agency, 2010)²⁵. It does not reflect the numbers of moves a child may experience (e.g. between placements and home) or the frequency of moves. It also does not consider the ages of children.

Twenty children had only one move before moving to prospective adoptive parents, with the consequence that they had formed strong attachments to these carers. Nineteen of these children were accommodated at birth.

Before they were adopted, many of the children had spent substantial lengths of time with one carer. Fifteen had spent two years or more with the same carer(s).

Whilst these long-term placements provide security for the children, they also mean that strong attachments are formed between child and carer(s). The move to adoptive parents requires a lot of careful preparation to minimise

²⁵ The National Care Standards – Foster Care and Family Placement Services (Scottish Executive, 2005) do not include any standards on numbers and/or lengths of placements.

distress to the child. This further emphasises the need to prevent delay to reduce any emotional harm to the child.

Some children experienced multiple moves and placements, others had the security of long-term carers before moving to their adoptive parents. Both these circumstances can impact on the development of a child's attachment to adoptive parents. There are few standards or guidance on numbers or length of placements and we should use this opportunity to discuss, consider and agree the numbers of moves and placements a child should experience which takes into account age and stage of development. Agreement and monitoring of these would allow local authorities to assess their performance in minimising them.

Children's Hearings System

Reporter decisions on first referral

The first stage, in most cases, of legally becoming a looked after child is a Children's Hearing making a Supervision Requirement. This means that the child is subject to compulsory measures of care that the local authority must implement²⁶. For this to happen, the child must first be referred to the Reporter and then to a Children's Hearing. In 75 cases, the Reporter decision on first referral was to refer to a Hearing. This meant that for 25 children the Reporter made other decisions, the most common one being compulsory measures not necessary. For the 15 cases which were very delayed, only six were first referred to Children's Hearing. This delay in being placed on a Supervision Requirement could result in delays in decisions being made about permanency.

The Reporter must exercise the 'minimum intervention principle' in what decision to make. In some cases, the risks posed to the child had been addressed and a Hearing was not required, for example a case where a sexually abusive father was serving a custodial sentence and not at that time in contact with his children and posing a risk to them.

SCRA will use this research to review Reporter decision making and to improve its performance for current and future cases to ensure that the right decisions are being made to safeguard the welfare of children in the short and long term.

Children's Hearings decisions and delays

Some commentators have suggested that it is Children's Hearings System processes (McLean and Hudson, 2010) and differences between Children's Hearings and local authorities on contact and rehabilitation that cause delays in permanence being decided. Although this research was not specifically tasked to look at this, there were times where parents and local authorities disagreed about the level of contact that a parent should have with their child, and as such, the Children's Hearing decided that a safeguarder was needed

²⁶ Sections 70 and 71 of Children (Scotland) Act 1995

to determine what was in the best interests of the child. This was usually the case after a period of inconsistent contact. There was some evidence that where contact had already been reduced, there was such a long period of time between this decision and the next Children's Hearing (up to one year) that parents sometimes felt they had made changes to their lives and they wished contact to be increased again; safeguarders were also appointed here. For one child in the study, a year after permanence had been decided, a Children's Hearing felt that contact should be maintained and the parent's given "one more chance" when the local authority had requested contact be reduced. An early review Hearing was subsequently arranged, however, in the interim period adoptive parents had been found and the Hearing decided to reduce contact.

Similarly, decisions made by Children's Hearings can have consequences for permanence planning. There are anecdotal reports about Children's Hearings being causes of delay, however, there has been no study to determine if this is the case or to identify improvements. The opportunity to examine and understand this better would be helpful and consideration should be given to undertaking an evaluation of practices and performance on Children's Hearings held to review Supervision Requirements and to provide advice to the court on permanence cases.

Advice Children's Hearings

Children's Hearings to provide advice to the Sheriff must be convened within 21 days of the Reporter receiving the notification from the local authority adoption agency in cases where birth parents do not agree with the permanence plan. This timescale was met in 52% of cases²⁷. It was not always clear from the SCRA and court files what the causes were for the delays in these Hearings being held.

The local authority/adoption agency has 28 days to submit the application to the Sheriff court from the Children's Hearing. This was met in 30 cases. In eight cases the application was made before the Hearing. Again the causes of delays in this part of the process were unclear from the SCRA and court files.

An independent review of adoption policy was initiated in 2001 (APRG, 2005). Many of its recommendations were taken forward by the Scottish Government in the 2007 Act (Scottish Executive, 2005b). One of the review's recommendations was that communication between local authorities/permanence panels, Children's Hearings and the courts be improved.

SCRA, local authorities and the courts should explore ways of improving communication mechanisms (including feedback), as part of their interagency working.

²⁷ This includes cases where the parents did not oppose permanency plan. If adoption plans are agreed (and in PRO cases) there was no 21 day timescale.

Court processes

There were few delays in the court process once the petition for the Order had been lodged; statutory timescales were met in most cases. Where delays occurred these were because of late submission of section 23 reports by the local authority adoption agency and/or late curator ad litem and Reporting Officer Reports. Where cases were most prolonged, however, was where birth parents objected to the application for the Order. In 21 Adoption Order cases, proof and/or pre-proof hearings were required as part of the court process so that parents opposition could be fully and properly heard and evidence led and tested.

Section 23 report

When an application for adoption is made the local authority adoption agency which placed the child must submit a report to the court on the suitability of the applicants, the child's welfare and background and any other matters relevant to the application²⁸. It has 28 days to do this after the petition is lodged. This was achieved in 47 cases. The longest took eight months.

The content of the section 23 report is virtually the same as the report prepared by the local authority for the advice Children's Hearing (which should have taken place prior to the application). Given this, there should be no delay in submitting the section 23 report to the court. The causes of delay were not always recorded or explained, and where they were this was mainly to do with staff absence.

There is an opportunity for SCRA, local authorities and the courts to improve the permanence application process by considering whether a single report would suffice for the advice Children's Hearing and the court.

Curators ad litem and Reporting Officers

Submission of the curator ad litem and Reporting Officer reports was sometimes a cause of delay. In addition, curators ad litem seldom asked the children for their views even where children were of school age, and there was variation in the extent to which Reporting officers tried to contact birth parents. This is a concern as these reports are a key element of the court process and important for protecting the rights of those involved in it. In the consultation on the Adoption and Children (Scotland) Bill, there was widespread support for a national scheme for the training, appointment and payment of curators ad litem, Reporting Officers and Safeguarders in the adoption process. However, this proposal was rejected by the then Scottish Executive (SPICe, 2006). More recently, Lord Gill's (2009) review of the Scottish Civil Courts also identified issues with quality and consistency of practice of these court appointed officers. Given the variation in performance of curators ad litem and Reporting Officers found in this research, it would seem that there would be merit in having such a scheme for curators and Reporting Officers.

²⁸ Section 23 Adoption (Scotland) Act 1978

There is scope for improving the operation of curators ad litem and Reporting Officers nationally.

13. Conclusions

This research sought to understand and identify improvements in the process of permanence planning and adoption for looked after children in Scotland. The evidence provided will be useful to all involved in the permanence process.

There are some clear positives. Most children were identified as at risk at an early age and measures were put in place quickly to keep them safe. Agencies worked effectively together to do this. There was also evidence of local authorities trying to keep sibling groups together in foster and permanent care, and in making efforts to ensure stable placements for children.

The main areas of delay in the permanence process appear to lie in the decision making processes within local authorities. There are no guideline or statutory timescales for this part of the process.

Research by Biehal *et al* (2009) has shown that a key aspect to the long-term stability of children's placements, is finding a permanent placement at an early age, at least by 3 years of age. Furthermore, emotional and behavioural problems found in children throughout their lives were clearly associated with early experiences of adversity (Beihal *et al*, 2009). Therefore, the current performance indicator for looked after children of three or more placements is limited as it does not take into account the ages of children. Young children, especially between six and 18 months old need stability and consistent attachment to be able to manage relationships as they get older, and permanent placements secured at a younger age are more likely to provide stability in the long term. Nearly half the children (44) in this study had experienced three moves by the time they were finally placed with prospective adoptive parents; over a quarter had four moves and one child had nine moves.

Two thirds of the children were in their final placement by the age of three years (some children had their first move after this age) and 44 children had experienced three placements in total (all ages). However, this research has also shown that out of the 27 children who had moved to their final placement within a year of first being accommodated, 18 had moved as part of their care plan prior to permanence being decided and therefore a permanent placement was found more through good fortune than planning. A total of 24 children were in their final placement before permanence was decided, many of whom were PRO children.

There were few delays in court processes and where cases took longer this was largely the result of late submission of reports or parents who disputed the applications. Sheriffs and Sheriff Clerks were prompt in appointing curators and Reporting Officers and arranging court hearings. This may be due to the need to meet statutory timescales and may also reflect (anecdotal reports from court staff) that Sheriffs place a priority on adoption cases due to the life-long significance for all those involved.

All the children in this research faced severe and often multiple risks from their parents. Most were identified to services pre- birth or from a very early age. In virtually every case, there were attempts to rehabilitate the child with their parents or keep them within their birth family, even where the child was accommodated at birth and never in their parents' care. This inevitably delayed decisions being made on permanence.

Everybody has the right to family life²⁹. Delays and uncertainty in attaining a stable and caring home have significant consequences for a child's development and ability to form attachments to others. Almost half of the parents in this study already had a child(ren) removed from their care. There may be need for greater focus in decision making on the level of known risk a parent presents to a child and the balance between the parent's right to care for their child and the child's right to be cared for within a family.

Looked after children who go on to be adopted or have some other form of permanence experience multiple delays and interventions that can harm their emotional and physical well-being now and for the rest of their lives. Recent changes in legislation have made improvements to the process of permanence and adoption. However, there is scope in examining and improving the processes prior to permanency being decided. These issues are not unique to children who go on to be adopted; they may also be faced by the 9,356 children in Scotland who are looked after away from home.

²⁹ Article 8 of the European Convention on Human Rights, incorporated into UK law by the Human Rights Act 1998.

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Adoption trends in Scotland

The total numbers of adoptions in Scotland has decreased by 44% since 1990. Adoptions were at their highest in the 1960s when about 2,000 children were adopted every year. In 2009, 455 children were adopted - 316 by non-relatives (General Register Office for Scotland, 2010).

The number of looked after children has increased every year since 2001, and is now at its highest since 1983. In 2008-09, there were 15,288 looked after children in Scotland. Most of these children remain at home with parents or relatives. 29% live with foster carers, 10% are in residential accommodation and 2% are with prospective adoptive parents (Scottish Government, 2010).

For 203 of the 4,386 children who ceased to be looked after in 2008-09 the reason for this was because they were adopted. The numbers of looked after children who are adopted have increased over the past 10 years, before 2002 less than 100 looked after children were adopted each year. In 2008-09, other looked after children had other forms of permanence: 420 had PROs, 143 had Freeing Orders, and four had Permanence Orders (Scottish Government, 2010).

Adoption applications

The last year for which detailed statistics on adoption applications in Scotland are available is 2003 (Scottish Government, 2004). The number of adoption applications of children aged less than one year old decreased from 280 in 1983 to 20 in 2003. The majority of adoption applications for children under five years old were made by non-relatives.

The number of days taken for adoption applications to reach an outcome was 140 days (time from Looked After Child Review recommendations for permanence to Adoption Order made) (Scottish Government, 2004).

Adoption and Freeing Order/Permanence Order with authority for adoption timescales – children subject to Supervision Requirements

Notes

- A child may be adopted directly with no preliminary Order; or he or she may first be the subject of a Freeing Order (s.18 of the 1978 Act) or a Permanence Order with authority for adoption (POA) (s.80 of the 2007 Act).
- A Freeing Order could be applied for up to 28 September 2009. From that date, the roughly equivalent application under the 2007 Act is for a POA.
- From 28 September 2010, any outstanding Freeing Order became a POA.
- The relevant secondary legislation with timescales:
 - For adoption and freeing applications under the 1978 Act
 - Adoption Agencies (Scotland) Regulations 1996 (1996 Regs.) and
 - for Sheriff court applications, the Act of Sederunt (Child Care and Maintenance Rules) 1997 (AS 1997).
 - Children's Hearings (Scotland) Rules. Rule 22(7) and (8)
 - For adoption and POA applications under the 2007 Act
 - Adoption Agencies (Scotland) Regulations 2009 (2009 Regs.) and
 - for Sheriff Court applications, the Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009 (AS 2009).
 - Children's Hearings (Scotland) Rules as amended. Rule 22(7) and (8)
- In Sheriff Court applications under the 1978 Act, there were no specific timescales in the court rules (except about the lodging of reports) but there were timetables in Practice Notes for all Sheriffdoms.
- There are also Practice Notes under the 2007 Act, about judicial case management.
- All applications were/are possible in the Court of Session where the court rules are in the Rules of the Court of Session 1993, as amended, Chapter 67.

Comparison information about PROs and POs

- A parental responsibilities order (PRO) under s.86 of the 1995 Act could be applied for up to 28 September 2009. From that date, the roughly equivalent application is for a permanence order under s.80 of the 2007 Act, without authority for adoption (PO).
- From 28 September 2009, all PROs became POs.
- The relevant secondary legislation with timescales:
 - for PRO applications under the 1995 Act
 - Act of Sederunt (Child Care and Maintenance Rules) 1997 (AS 1997)
 - Children's Hearings (Scotland) Rules rule 22(7) and (8).
 - for PO applications under the 2007 Act
 - Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009 (AS 2009)
 - Children's Hearings (Scotland) Rules as amended rule 22(7) and (8).

Stage	Timescale Statutory	Timescale - not statutory	1978 Act	2007 Act
LAC review decision re. permanence		Local authorities should have their own timescales	-	-
Preparation of report for Adoption Agency Panel		Report for adoption panel completed within 12 weeks of LAC review recommending adoption (National Care	-	-

		Standard 2.1).		
Adoption Agency decision	within 14 days of Adoption Panel recommendation		Regulation 12(1), 1996 Regs	Regulation 13(1), 2009 Regs
Adoption agency (a) notifies parents (and others) of agency's decision; and (b) issues Memorandum, Certificate of receipt (2007 Act only) and form for agreement/non-agreement	Within 7 days		Regulations 12(3) and 14(1), 1996 Regs	Regulations 14 and 16(2) (adoption) or 17(2) (POA) of the 2009 Regs
Parent(s) return signed certificate stating agreement or non-agreement with Adoption Agency decision	Within 28 days		Regulation 15(1), 1996 Regs	Reg 16(3) (adoption) or 17 (3) (POA) 2009 Regs
If parents return the agreement form within 28 days and agree with the plan - there should be an Advice Hearing in due course, and no more timescales in the 1996 or 2009 Regs.	No further timescales for Agency notification to Principal Reporter, for Hearing being convened or for lodging court application – SCRA Practice Instruction is that Advice Hearing be convened without undue delay.			
If parents return the agreement form and do not agree, or they do not return the form within 28 days, Adoption Agency must notify the Principal Reporter that it intends to proceed with the plan for adoption	Within 7 days		Regulation 17(2) of the 1996 Regs	Regulation 23(2) of the 2009 Regs
Principal Reporter must convene a Children's Hearing	Within 21 days of		Rule 22(8),	Rule 22(8)

	notification when parents do not agree plan		Children's Hearings Rules 1996	Children's Hearings Rules 1996 as amended
Principal Reporter must send a copy of the report by a Children's Hearing to the court, local authority/adoption agency, the child and the relevant person(s) (This timescale applies even in agreed cases)	7 days		Rule 22(7) Children's Hearings Rules 1996	Rule 22(7) Children's Hearings Rules 1996
Adoption Agency must make an application to the Court for a Freeing/POA <u>or</u> an adoption application must be lodged	28 days from date of Children's Hearing (for applications under the 1978 Act) 28 days from date agency receives the report from the Children's Hearing for applications under 2007 Act.		Regulation 18(3) plus (4), (5), 1996 Regs	Regulation 23(3) plus (4) and (6), 2009 Regs
Adoption agency must provide a report to the court about the application as a whole, including the suitability of applicants in adoption cases			s23 for adoption; AS 1997 r.2.5(2)(b) for Freeings	S17 for adoption; AS 2009 r.31(2)(b) for POAs
If no report is available to be lodged along with the petition, the sheriff must pronounce an interlocutor requiring the report in adoptions and POAs, and no provision about freeing reports	Under 1978 Act and in adoption cases only, within 4 weeks with discretion to fix another period		Rule 2.21(5), AS 1997;	

	Under 2007 Act, in adoptions and POAs, within 2 weeks , with discretion to fix another period			Adoption, r.8(8), POA r.31(4), AS 2009
<p>Court timescales</p> <p>1. 1978 Act applications – no specific timetables in the AS 1997, except for the lodging of the curator and reporting officer’s reports – see below. In disputed cases only, the court was required to fix a timetable, rule 2.4, AS 1997, and there were no forms of response or ‘preliminary’ hearings.</p> <p>2. Under the 2007 Act, the 2009 Rules have fixed timetables for adoption and POAs. When a application is lodged, Sheriff Clerk must fix a preliminary hearing date</p> <p>Under both Acts, Practice Notes for all Sheriffdoms required/require sheriffs to case-manage pro-actively.</p>	<p>First Hearing fixed on receipt of curator ad litem report</p> <p>Not less than 6 weeks and not more than 8 weeks after application lodged,</p>		<p>Rule 2.11(1) freeing, r.2.28(1) adoption, AS 1997</p>	<p>Adoption, r.14.1(a) POA, r.33(1)(a), AS 2009</p>
Under the 2007 Act only, form of response opposing application	To be lodged within 21 days of intimation			Adoption, r.16, POA, r.34, AS 2009
Production and submission of reports from Reporting Officer and curator ad litem, usually and not always the same person	4 weeks from date of appointment or other period in Sheriff’s discretion		Freeing, r.2.8(1) & (2); Adoption, r.2.26(1) &(2), AS 1997	Adoption, r.12(1)(d) & (4), POAs, r.44(1)(e) & (4), AS 2009

<p>Further procedures in 1978 Act cases At 'first' hearing, if case not completed, Sheriff fixes 'second' hearing</p> <p>At 'second hearing', proof hearing fixed, pre-proof hearing fixed, and further preparations made for proof</p> <p>Further procedures in 2007 Act cases At preliminary hearing, if case not completed,</p> <ul style="list-style-type: none"> • preliminary hearing may be continued once • proof hearing fixed • pre-proof hearing fixed 	<p>Continuation for not more than 4 weeks</p> <p>No earlier than 12 weeks and no later than 16 weeks after preliminary hearing</p> <p>No more than 6 weeks and no less than 2 weeks before the proof hearing</p>	<p>Sheriff Court Practice Notes: Normally not more than 6 weeks after first hearing,</p> <p>No timescale for proof date; pre-proof hearing approx 2 weeks before</p>	<p>AS 2009 Adoption, r.18(2), POA, r. 35(2)</p> <p>Adoption r.18(1)(b)(ii), POA, r.35(1)(b)(ii)</p> <p>Adoption r.18(1)(b)(iii), POA, r.35(1)(b)(iii)</p>
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<ul style="list-style-type: none"> Answers ordered and any other documents as appropriate 	To be lodged within 21 days or other period at Sheriff's discretion			Adoption r.18(1)(b)(iv) & (3)(a), POA, r.35(1)(b)(iv) & (3)(a)
<p>1978 Act cases Proof Hearing completed, judgement should be issued</p> <p>2007 Act cases Proof hearing completed, judgement must be issued</p>	Within 4 weeks	Sheriff Court Practice Notes: Within 4 weeks		Adoption r.22(1) & (3), POA r.38(1) & (3), AS 2009

Length of time child must live with adoptive parent(s) before adoption order may be made

In adoption agency cases, i.e. child placed by agency, or in adoptions by close relatives or step-parents	Child must be aged at least 19 weeks old; and have lived with adoptive parents (or under 1978 Act only, one of them) for 13 weeks.		S13(1)	S15(1), (2) and (3)
In non-agency, non-close relative and non-step-parent adoption	Child must be at least 12 months old; and have lived with adoptive parents (or under 1978		S13(2)	S15(1) and (4)

	Act only, one of them) for 12 months			
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Reviews After Freeing Orders granted

Stage	Timescale Statutory	Timescale - not statutory	1978 Act	2007 Act
Adoption Agency must review child's case where a child has been freed for adoption and not placed	6 months , then at 6 monthly intervals		Reg.21, 1996 Regs	N/A

Reviews after POAs granted or Freeing became a deemed POA

Stage	Timescale Statutory	Timescale - not statutory	1978 Act	2007 Act
Local authority holding the POA must review the child's case under the looked after provisions, until the POA is terminated by adoption or is revoked, whether the child is placed or not	Reg.44, at least once a year Reg 45, essentially every six months		N/A	s.29, 1995 Act and LAC (S) Regs 2009, regs.44 or 45
Where a child is subject to a POA and not placed , additional review duties	After 6 months , then every 6 months			Reg.26, 2009 Regs

Sources:

- SCRA (2009), Adoption and Children (Scotland) Act 2007 Practice Instruction Note 37
- BAAF Scotland's Training Materials for local authority and fostering and adoption agencies on the Adoption and Children (Scotland) Act 2007, developed for training in 2009
- Adoption (Scotland) Act 1978

- Children (Scotland) Act 1995
- Adoption Agencies (Scotland) Regulations 1996, S1 1996 No. 3266
- Act of Sederunt (Child Care and Maintenance Rules) 1997, SI 1997 No 291
- Scottish Office (1997). Scotland's Children – The Children (Scotland) Act 1995 Regulations and Guidance: Volume 3 Adoption and Parental Responsibilities Orders
- Scottish Government (2008). National Care Standards. Adoption Agencies (revised March 2005).
- Adoption and Children (Scotland) Act 2007
- Adoption Agencies (Scotland) Regulations 2009, SS1 2009 No. 154
- Looked After Children (Scotland) Regulations 2009, SSI 2009 No. 210
- Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009, SSI 2009 No. 284.
- Advice of Scottish Court Service staff.
- Advice of BAAF.

Research variables

Gender, date of birth, SCRA team and Sheriff Court were recorded for all cases.

SCRA case files	Court records**
No. siblings adopted pre birth	Advice Children's Hearing held
No. siblings permanence/ adopted same time	Advice from Children's Hearing received by court
No. siblings NOT adopted	Date petition lodged
1st contact services - TYPE	Petitioner*
1st contact services - DATE	date 'section 23' report requested from local authority*
Known at birth	date s23 report received by court*
Pre birth/at birth assessment	extension granted for production of s23 report?*
Current or previous CPR registration	Date Curator appointed
1st CPR date	Date Reporting Officer appointed
2nd CPR date	Reporting Officer different person to curator?
CPR category(s)	Reporting Officer contacts birth parents
1st SCRA referral	Date Curator report produced
1st SCRA referral - grounds	Date Reporting Officer report produced
1st SCRA referral - Reporter decision	Birth parents consent?
Last SCRA referral	Child (12 and over) consent?
1st Hearing	Preliminary court hearing date set (1st calling)
1st Hearing decision	Preliminary court hearing held (1st calling)*
1st Supervision Requirement	Pre-proof hearing needed?*
1st Supervision Requirement type	Proof Hearing date set*
CPO(s)	Proof Hearing held*
CPO(s) date(s)	Case called/issue of certificate of intimation to birth parents
History of accommodation	Date of Hearing
Accommodated at birth?	Order granted
Date of 1st move	SR terminated
Number of moves	Date child received into care of adoptive parents*
Number of placements	Length of time child with prospective adoptive parents before Order granted*
longest period in SINGLE care pre-AP/final FC - months	Age of child when Order made
total period in care pre-AP/ final - FC months	Appeals against Adoption Order*
ever returned home once	Child's views

removed?		
Parental issues - ability to care		Issues about timescales
Parental issues - attachment, contact		Freeing Order made and date?
Permanence first identified		Any previous Adoption Orders/ applications for adoption/PROs?
Parallel Planning used?		Application to vary, discharge or terminate PRO
LAAC Review, Permanence identified		
Permanence meeting/review		
Prospective adopter identified		
Matching Panel date		
Parent response		
Moved to adoptive parents		
Advice Hearing requested		
Advice Hearing held		
Adoption/ Freeing/Parental Responsibility Order Granted		
Issues around timeline		
Issues around placements, attachment		

* Not PRO cases

** Some children had both Freeing and Adoption Orders – this information was recorded for both processes wherever possible.

Glossary of terms

Accommodated under section 25 of the Children (Scotland) Act 1995

Where a child or young person is voluntarily accommodated away from home by a local authority (i.e. not through compulsory measures from a Children's Hearing or through the courts).

Adoption agency

An office/agency authorised by law to provide information and perform functions (e.g. home visits, court processes, and place children with prospective adopters) in relation to the adoption process.

Only adoption agencies may make arrangements for the adoption of children, the approval of adopters and the matching of children and adopters, unless they are permitted non-agency ones by relatives, etc.

All local authorities are adoption agencies and there are also voluntary adoption agencies, registered adoption services, although they do not make arrangements for children. Every adoption agency is regulated by and must be registered with and inspected by the Care Commission under the Regulation of Care (Scotland) Act 2001³⁰.

Adoption/Permanence Panel

Every adoption agency which plans for children and/or approves adopters must have an adoption panel. It is a panel of persons with experience of permanence and adoption, such as adoption agency and local authority social work staff, adopters, foster carers and adopted people. Each panel must also have a medical and legal adviser. The panel makes recommendations (not decisions) on all matters referred to it by the agency, particularly about adoption plans for children, approval of adopters and the matching of children with adopters. Its recommendations are passed to the Agency Decision Maker for decisions.

Advice Hearing

A Children's Hearing which is arranged to review the child's Supervision Requirement and to provide advice to the court on proposed permanence plans.

Agency Decision Maker (ADM)

A senior member of the management of an Adoption Agency whose responsibility it is to make agency decisions about children's adoption plans, approval of adopters and the matching of children and adopters. Often the decision follows the recommendation of the Adoption/Permanence Panel but an ADM does not have to follow recommendations.

³⁰ From April 2011, SCSWIS will replace the Care Commission under the Public Services Reform (Scotland) Act 2011.

Child Protection Order (CPO)

A local authority can apply to the Sheriff for a Child Protection Order if it considers that the child is or is likely to be suffering significant risk of harm under section 57(2) of the Children (Scotland) Act 1995.

Child Protection Register (CPR)

A confidential list of children and young people in an area who are identified at a child protection conference (a multi-agency group of professionals involved with the child/young person) as being at risk of significant harm.

Children's Reporter

The Children's Reporter is the first contact that a child and family will have with the Children's Hearings System. Children are referred to the Reporter if it is considered that they may need compulsory measures of supervision. The Reporter investigates each and then makes a decision as to whether the child should be referred to a Children's Hearing (sections 52, 53 and 56 of the Children (Scotland) Act 1995).

Curator ad litem

Independent person appointed as an officer of the court by the Sheriff or judge to investigate the circumstances of the case and report to the court on all aspects of it, from the perspective of the child's welfare as paramount consideration. A curator is appointed in every sheriff court application for adoption, freeing, PROs, POs and POAs, and also in almost every Court of Session application.

Grounds of referral to the Children's Reporter

The reasons for the referral to the Reporter as listed in section 52(2) of the Children (Scotland) Act 1995.

Looked After Children (LAC)

Children who are looked after away from home by the local authority in terms of section 17(6) of the Children (Scotland) Act 1995. Children are 'looked after' if they are subject to a Supervision Requirement, a CPO, a Hearing or court warrant, or a PRO or PO; or if they are cared for on a voluntarily basis under section 25 of the 1995 Act.

Looked After Child Review (LAC Review)

The regular meeting between the child, carers, parents and social work department (and other agencies, if involved) to share information on progress and discuss ongoing/future plans and possible placements. The purpose of this meeting is to review and make sure the Child's Plan is meeting the needs of the child.

Matching Panel

An adoption/permanence panel meeting which recommends a match for a specific child with specific adopter(s) or long-term carers.

Parallel planning

Where the rehabilitation to the child's birth parent(s) and the pursuit of permanence (e.g. adoption) are worked on at the same time and where permanence is seen as the fall-back position if rehabilitation fails.

Pre-proof hearing

A procedural hearing held by the Sheriff or judge to check that all parties involved in the case are ready, any outstanding issues are resolved and a list of witnesses and productions to be led is lodged. The Sheriff or judge will also ask whether there are any questions of admissibility of any evidence and whether there may be any questions under the European Convention of Human Rights or other procedural matters which need to be addressed.

Proof hearing

A court hearing which involves the leading of evidence, usually from witnesses in person, although affidavit evidence, reports and/or other productions may be put before the court. In permanence and adoption cases, there will be a proof hearing when birth parents or others oppose a application for adoption, freeing, PRO, PO or POA. The purpose is for the court to hear all the evidence and then assess it and decide whether to find grounds established or grant the order applied for.

Reporting Officer

Independent person appointed as an officer of the court by the Sheriff or judge to ascertain if the birth parents fully understand the adoption process and witness their consent if they wish to provide this.

Safeguarder

A safeguarder is appointed by a Children's Hearing or the court, to provide an independent assessment of what is in the child's best interests. He or she should speak to the child, carers, parents and professionals and submit their report and recommendations to the Children's Hearing or court.

Schedule 1 offence

An offence listed in Schedule 1 of the Criminal Procedure (Scotland) Act 1995. This is a list of offences against children, including violent offences, sexual offences and neglect and abandonment.

Section 23 report

A report prepared by the local authority adoption agency which placed the child for adoption, under section 23 of the 1978 Act, now replaced by section 17 of the 2007 Act. If an adoption application is a non-agency one, a similar report was/is prepared by the local authority where the child lives, section 22 of the 1978 Act and section 19 of the 2007 Act.

Supervision Requirement

A Children's Hearing makes a Supervision Requirement where it decides that compulsory measures are necessary to protect the child and/or address his or her behaviour. Local authorities have a statutory obligation to implement Supervision Requirements (sections 70 and 71 of the Children (Scotland) Act

1995). A Supervision Requirement makes a child 'looked after' under section 17(6) of the 1995 Act.

Legislation

Adoption and Children (Scotland) Act 1978

Children (Scotland) Act 1995

Adoption and Children (Scotland) Act 2007

Children's Hearings (Scotland) Rules 1996

Adoption Agencies (Scotland) Regulations 1996

Act of Sederunt (Child Care and Maintenance Rules) 1997

Adoption Agencies (Scotland) Regulations 2009

Act of Sederunt (Sheriff Court Rules Amendment) (Adoption and Children (Scotland) Act 2007) 2009

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