

Permanence and long-term foster care: what are the options?

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Synopsis of article

Long-term foster care is the predominant permanent placement option for children who are likely to remain in out-of-home care in Ireland. The insertion of clauses into the Irish Constitution recognising children's rights provides possibility for the expansion of options. The nature of care planning, foster and adoptive parent assessments, as well as social work involvement in judicial processes, may be on track therefore to undergo significant change in Ireland. This paper describes the recent insertion into the Irish Constitution and examines it against the backdrop of a profile of children currently in care. It explores the option of 'special guardianship', which was legislated for in Ireland in 2007, as one possibility within long-term foster care which is aimed at securing greater permanency for placements. The paper also explores the proposals for advancing adoption as another permanency option for children in long-term foster care. We identify a number of key issues of potential interest to the foster care community in relation to permanency and stability, as well as legislative and policy change.

Introduction

For over 30 years, carers and social workers in Ireland have achieved success in securing stable outcomes for many children in long-term foster homes. This is an achievement of which both carers and the profession can be very proud. There is, however, evidence that stable outcomes have not been achieved for *all* children. Questions remain as to how the system, and the situation for individual children, could be improved. The options in respect of permanency are examined with these in mind. Firstly, the new insertion into the Irish Constitution recognising children rights is presented, followed by a snapshot of trends in respect of children in care. Secondly, the legal options and proposed changes are examined.

Recognising children's rights in the Irish Constitution

The constitutional amendment of 2012 changes the previous balance of legal rights between children and parents in Ireland. Prior to this insertion, the rights of parents were

the stronger undoubtedly. The newly-approved Article 42A in the Irish Constitution 2012 enables married parents to place their child for adoption for the first time; it facilitates children born to either married or unmarried parents to be adopted, as well as those residing for a specific time frame in long-term foster care. The Adoption Amendment Bill 2012, published as part of the children's referendum campaign, contains legislative proposals which would permit children to be adopted if they are with foster carers for three years or more.

Article 42A of the Irish Constitution Amendment 2012 recognises that all children have rights, and pledges to protect those rights through the laws of the State. This is its central premise. The Article makes provision for children to have their views established and permits the courts to identify rights for children on a case-by-case basis.

Article 42A

The new article inserted into the Constitution states:

1. The State recognises and affirms the natural and imprescriptible rights of children and shall, as far as practicable, by its laws protect and vindicate those rights (Art.42A.1).
2. In exceptional cases, where the parents, regardless of their marital status, fail in their duty towards their children to such extent that the safety or welfare of any of their children is likely to be prejudicially affected, the State as guardian of the common good shall, by proportionate means as provided by law, endeavour to supply the place of the parents, but always with due regard for the natural and imprescriptible rights of the child (Art.42A.2.1°).
3. Provision shall be made by law for the voluntary placement for adoption and the adoption of any child (Art.42A.3).

Article 42A.4.1° outlines that provision shall be made in law that in the resolution of all proceedings:

- i) brought by the State, as guardian of the common good, for the purpose of preventing the safety and welfare of any child from being prejudicially affected, or;
- ii) concerning the adoption, guardianship or custody of, or access to, any child, the best interests of the child shall be the paramount consideration.

The Amendment further states that provision shall be made by law for securing, as far as

practicable, that in all proceedings referred to in Article 42A.4.1° in respect of any child who is capable of forming his or her own views, the views of the child shall be ascertained and given due weight having regard to the age and maturity of the child.

One of the effects of recognising children's rights in the Constitution is to position adoption more centrally in the care system. It also expands the basis on which the State can make decisions about children, going against the wishes of their parents. It is, as yet, unclear how the provisions under Article 42A will become manifest in practice in relation to children's rights. However, it is clear that these changes will have implications for current service delivery and particularly for professional practice. It is likely to change the nature of care planning, as well as foster and adoptive parent assessment, and social work involvement in judicial processes (O'Brien and Palmer, 2015).

Children in care

The information systems available in respect of children in care are extremely limited in Ireland. This impacts seriously on the ability to obtain a detailed profile of different cohorts of children in the care system and, with particular importance for this article, children in long-term foster care. The shortfall of data creates challenges for service managers, professionals, advocates and policy makers who are planning and delivering services aimed at optimising opportunities for children in the system.

Table 1 overleaf provides an indication of the circumstance of the total numbers of children in care between the years 2006 and 2012. It breaks down the numbers of children admitted into and discharged out of care each year, the total number in foster care in relation to total care population and, finally, the total length of time children have spent in foster care over this seven-year period.

While this type of snapshot is helpful, it is clear that it is not yet possible to track the pathway of each individual child through the care system. The data available for analysing trends in the Irish foster care system is limited to overview. While there are plans to improve data collection, there is a need to balance resource usage for data collection in relation to frontline service delivery. The pressures on frontline social workers are already well documented, and social workers have to negotiate their way through an under-resourced child protection system. Rarely do they have the opportunity to look at a range of options for a child, but must settle frequently for what is second best or available (O'Brien and Cregan, 2015; O'Brien and Palmer, 2016).

Table 1. Profile of all children in care between 2006 and 2012

Amount of Time in Care	< 1 year	1-5 years	More than 5 years	Total no. of children in foster care (FC and relatives)	Total no. of children in care system	Total no. admitted to care per year	Total discharged from care per year*
2006	27%	39.4%	33.6%	4,519	5,247	1,845	-
2007	25.2%	37.4%	37.4%	4,693	5,307	2,134	-
2008	23.1%	40.1%	36.2%	4,715	5,345	2,013	1,973
2009	27.5%	39.4%	33.1%	5,058	5,674	2,372	2,045
2010	25.3%	39%	35.7%	5,343	5,965	2,291	2,000
2011	23.1%	43.3%	33.5%	5,564	6,160	2,218	2,053
2012	18.2%	44.9%	36.9%	5,816	6,332	2,070	1,898

*Sources: Data from HSE, 2012; TUSLA, 2014; Department of Children and Youth Affairs, 2013b; * It is not possible to de-aggregate the numbers of children leaving care, that is: if care order expired and/or was overturned; if reunification occurred as part of care plan; if children reached 18 year, etc.*

Table 1 provides information on the level of activity in the system and a number of trends are evident. There are, on average, approximately 2,000 children entering the care system each year and almost 2,000 leaving it. However, the cumulative numbers of children in care are increasing each year. Referencing the Department of Children, O'Brien and Cregan (2015, p.89), report that:

"According to a report (DCYA 2013a) submitted to the UN on the Rights of the Child, a rise in the population and a growing awareness of the impact of both long-term neglect, as well as the impact on vulnerable parents of the economic downturn contributed to the increase in the care population."

Internationally, Ireland still resides in the mid-range category in terms of the number of children in care and average admission rates, when compared to countries such as Japan and America (O'Brien and Cregan, 2015, p.89).

Creating a detailed analysis of trends, especially as it relates to children in need of permanency, requires knowledge of the individual journeys through care. Who are the children residing in care for longer than five years? What family situations brought them into care? Why are they still in care? Do they have siblings, or not? Are these siblings in care? And if so, are they placed together? What was the initial care plan? How has this changed over time? Was reunification planned for initially? What did this outcome

change? And, finally, what cohort of children represented in other time periods (such as those represented in Table 1) are likely to remain in care? Such information is usually known at a case level, and is usually captured within the care plan. However, templates for care plans might not always capture all this information. Information is essential to obtain a full picture of the care experience and pathways.

Carers for children in care

O'Brien and Cregan (2015, p.89), report that:

“The majority of children in state care (91 per cent) were living with foster families and the remaining 9 per cent were living in residential care units or other types of placements. Of the 91 per cent children, 31 per cent were living with relatives, (formal kinship placements) and 60 per cent were living with non-related foster carers.”

‘Snapshots’ of the carer profile are provided by Meyler (2002), Daly and Gilligan (2005) and Irwin (2009). Clearer analysis of the demographic features of the 3,783 foster and kinship carers (DCYA 2013b) is, however, largely unknown. The age, personal family set-up and income level are among the questions that come to mind if one is deciding on a permanent living arrangement for a child in care. Additionally, information such as the number of foster children in their care, how long they have been foster carers and how long individual children have remained in their care, would provide a more rounded overall picture of carers. Within this information void, the precise profiles, challenges and opportunities faced by carers in respect of providing permanent homes to children are hard to describe.

It is suggested that implementation of domestic adoption reform, while welcome in some respects, may have an impact, as yet undetermined, on the group of long-term foster carers whose retention is essential for the maintenance and stability of multiple care options for children in care. Stability in foster care is crucial and it is well recognised that the foster carer role is complex (Horgan, 2002).

If alternative options for children in long-term care are being considered at a political level, information and data are needed urgently in respect of the children, the carers, and the birth and foster families within the current system. This is crucial and basic information and should be an important pre-requisite to any future legislative change.

Otherwise, planned legislative amendments may be developed and implemented, largely with a knowledge vacuum on the general state of the care system.

What do we already know?

The goal of the care system is to provide for children who cannot live with their parents. The system is built on the premise that admission to care is a last resort and is only pursued when all efforts to keep children and their birth parents together are exhausted. If care is needed, the preference is for family-based care.

There are no generally-agreed definitions as to what constitutes short- or long-term foster care. However, in practice, six months or under is considered short term, while over six months is considered long term. However, if any foster carers are asked what short-term care is, their answer will tell a different story. Long-term foster care - the focus of this paper - is usually understood to apply to circumstances where the professionals involved are of the view that "it is unlikely the child/young person will return to live with their own family" (IFCA, 2011). But what is known of this cohort of children, and their carers, within the care system? And how is this knowledge pertinent to discussions surrounding permanency options in Ireland?

There has been a number of small studies in respect of long-term foster care (Daly and Gilligan, 2005; Daly, 2012), but the limited data available on the profile of children in care, and their care plans, means that very limited inferences only can be drawn.

Daly and Gilligan's study highlighted that nearly two thirds (61 per cent) had more than one foster child within the household (2005). It was also found that 76 per cent (Meyler, 2002) and 70 per cent (Daly and Gilligan, 2005) had at least two other children in the household, so children were fostered alongside birth children.

In terms of family structure, 11.2 per cent in Daly and Gilligan's (2005) study, and 12 per cent in Meyler's (2002) had just one adult carer in the household. Daly and Gilligan's (2005) report showed that 85.4 per cent (170) of foster carers stated they had a very close or fairly close relationship with the fostered child, while 14.6 per cent (29) stated there was a reasonably close or a not close relationship. The nature of the relationship is a crucial factor in determining stability and permanence in care. McEvoy and Smith (2011) noted in their study that young people felt that being treated differently from the foster carer's own children was one of the greatest barriers to feeling a sense of real belonging to that family.

At an anecdotal level, a number of trends are indicated. Children in long-term foster care are predominantly in their teenage years. In 2012, 32.8 per cent of children in long-term care were aged nine to 13, and 30.3 per cent were aged 14 to 17 (Tusla, 2014, p.52). This is seen as a result of a combination of factors, including long-term foster care being the predominant form of out-of-home-care, many children entering care at an older age, and adoption from care being a rare occurrence. Other anecdotal evidence suggests that some children in long-term foster care lose contact with their birth families over time, while some long-established, long-term, foster-care placements are at heightened risk of breakdown as the children enter teenage years.

More informed analysis could provide useful information in respect of children already in long-term foster care and their carers. This could help also to assist planning for children who may enter long-term foster care at a future date, with particular reference to issues of stability and permanency, and those that might avail of those options. It is likely that, if permanence is to become more central within the care system, there may be different actions for short- and long-term foster children. There is evidence that, when permanence is more central in the system, there is a greater focus on time as a variable in planning for young children entering the system (Parkinson, 2003).

Permanence and outcomes

A great deal of confusion exists as to the definition of permanence within the care system. The literature is full of examples in which commentators are not explicit in their definition when discussing this term. Deciding on a definition is important when one considers the legal, emotional, and social parameters of permanence. This paper is mainly concerned with the legal definition in order to secure permanence. However, at a more general perspective, a good working definition of permanence is the one used by the UK Performance and Innovation Unit (2000) where it is defined as the security and well-being that comes from being accepted as members of new families. This definition captures the combined aspects of stability, good developmental outcomes and family membership which remain at the heart of the various definitions of permanence (Schofield 2009).

It is widely accepted also that stability and permanence are key to health development. Multiple placements, and lengthy periods in care, are intrinsically linked to trauma and negative outcomes later in life (Daly, 2012; Biehal, 2009). It is known that in 2012, 172 of

the 6,332 children experienced three or more placements, but we don't know how many of the 172 were children in long-term foster care (Tusla, 2014). Daly's research reiterates the high levels of adversity facing children in the care system, especially when they reach 18 years and age out of the system. When this is combined with the issues identified by the Child Death Review (Shannon and Gibbons, 2012), the challenges for young people in care are seen to be enormous. McEvoy and Smith (2011) have found in their research that children in the care of the Irish State carry with them an "immense fear" of turning 18 and that some children who had left their foster family at this age did so with a sense that they were "a transaction in a business arrangement" (McEvoy and Smith, 2011, p.85). The assumption is that a legal provision for adoption would increase the chances of foster children staying with their foster families into adulthood. Once adopted, they would be full members of the new family and would transition to live away from home just like other young people in their community.

The relationship between outcome and experience in the care system is hugely difficult to explain. The reason is because it is not always possible to compare like with like; every individual care experience may be very different in any number of ways. It is extremely important therefore to place caution at the forefront when assertions are made in this regard. Variables such as permanence, stability and identity formation are widely recognised as key to optimising outcomes for children in state care. It is hard to argue against this premise. What presents difficulty, however, is the ability to obtain agreement on the level of relational or hierarchical importance each of these variables represents within the whole picture. Debates rage on questions including, "How are each of these terms defined? What would we see if they were all in place? Are there different perspectives depending on who is speaking?"

While outcomes for children in care are, and should be, held as core measures, the actual experiences of the system of children and young persons are also seen as key indicators (McEvoy and Smith, 2011). To this end, we will now consider the legal options, available or proposed, in respect of enhancing permanency.

Guardianship as a permanence option?

'Special guardianship' was introduced in 2007 to enhance the stability of placements by creating legal ties between children and foster carers, while not completely severing the child's links with the birth family. The change was inserted into Section 43 of the Irish

Child Care Act, 1991. It authorises foster carers:

“To have, on behalf of the Health Service Executive (HSE), the like control over the child as if the foster parent or relative were the child’s parent” (Child Care (Amendment) Act 2007, s.4(a)).

Implementation in Ireland

‘Special guardianship’ was first recommended for implementation in Ireland in 1984 by the Review Committee on Adoption Services. The absence of alternatives created a fear that adoption orders might be applied for in inappropriate circumstances and that adoption might not be a suitable option for *all* children. These circumstances relate to children in long-term care with relatives, where in-family adoptions could create “distorted relationships” and, for older children, where cutting all links with their birth family would not be appropriate (Review Committee on Adoption Services, 1984, p.83). The Review Committee (1984, p.82) recommended that a “less radical” option should be introduced for children in long-term care.

The 2007 ‘Special guardianship’ order that subsequently came into force creates circumstances where increased responsibility and autonomy can be provided to foster carers or relatives in the practical day-to-day care of children in their long-term care (Nestor, 2007). It represented a change in practice as, for the first time, foster carers were recognised as persons who could apply for legal rights and have responsibilities in respect of children in their care. ‘Special guardianship’ gives foster carers the authority to consent to medical and psychiatric examination, treatment or assessment. It also enables carers to consent to the issuing of a passport to “enable the child to travel abroad for a limited period” (Child Care (Amendment) Act 2007, Section 4 (5)(ii)). This authority is similar to that given to the HSE (now Child and Family Agency) when a child enters care on a care order (Child Care Act 1991, Section 18 (3) (a) & (b)). However, it does not remove birth parents’ guardianship rights. Importantly, neither does it “supplant the HSE’s (now Child and Family Agency’s) statutory role” regarding the child, (Child Care (Amendment) Act 2007, Section 43A) as the Child Care Act 1991 and Child Care (Placement of Children in Foster Care) Regulations 1995 remain in place (Shannon, 2010, p.302). Under the legal arrangement, the child remains in the care of the state and can be removed from the foster placement at any time (Shannon & Power, 2007).

Certain criteria must be complied with prior to any application for guardianship. The

most significant of these is the requirement of foster carers to have been caring for the child for a "continuous period of five years" (Child Care (Amendment) Act 2007, Section 4 (2) (a)), without disruption of a period longer than 30 days (Section 4 (3)). Other criteria include that:

- The order is in the *best interests of the child*
- The HSE (now Child and Family Agency) has consented
- If in voluntary care, the birth parents have consented
- If on a full care order, the birth parents have been informed, unless they are determined to be missing or the court, having regard to the child's welfare, so directs
- The child's wishes have been considered, in so far as practicable

(Child Care (Amendment) Act 2007, Section 4, subsection 4(2) - 4(4)).

The order also stipulates that further conditions can be imposed (Child Care (Amendment) Act 2007, Section 4 (6)). These conditions were set out first in a brief policy guidance document for HSE staff in 2009. The policy also recommended that, when eligibility to apply is met, the provisions in Sections 43A and 43B be "automatically discussed at child-in-care reviews" (HSE, 2009, p.5).

Why did it happen?

The reason for the introduction of this provision was to address basic issues which were causing difficulties for foster children and their carers at the time. These, according to Mulligan (2012, pp.22-23), included:

- The "regime of intensive supervision of foster carers" by social workers, regardless of length of placements (Dáil Éireann, 2007, p.636(3)). It was thought that special guardianship could free up social work time (Seanad Éireann, 2006).
- The stigma of being in care and how this impacted on the quality of life for children in care when compared to that of their peers. The example of school trips was cited and how children in care can be singled out among peers, as they wait for written permission from their social worker to partake in the excursion (Dáil Éireann, 2007).
- Practical problems around consent for medical attention where delay might put children at risk (Dáil Éireann, 2007). Prior to the introduction of section 43 into the 1991 Act, foster parents, despite acting in a primary-carer role, could only consent

to “urgent medical treatment” and only if a medical practitioner found it to be necessary and “in the interest of the child’s welfare” (Department of Health and Children, 2003: Standard 11; Shannon, 2010, p283).

While the introduction of special guardianship addressed a number of these issues, challenges remain today for many children and their long-term foster families in respect of being able to live more like their peers and others living in their community.

Guardianship as a route to permanency?

There is no data available in respect of how many special guardianships have been granted since the introduction of the provision in 2007. The extent to which guardianship is routinely addressed in care reviews is not known. This data gap is a major concern. How can guardianship be evaluated as an option if base data, such as the numbers involved, cannot be ascertained. In the first instance, the collation of base data is necessary along with an evaluation of how guardianship has been experienced by carers and young people.

Anecdotally, a number of difficulties have been identified with how the legal framework for guardianship has been set up. One difficulty is the five-year time frame which needs to be in place prior to an application. This time criteria is longer in Ireland than in many other jurisdictions. An application for legal guardianship in Sweden, for example, can be made after three years. A further criticism is the stated provision of guardianship to provide a ‘family for life’. Ireland, together with other jurisdictions providing this measure, offers ‘special guardianship’ only until a young person reaches the age of maturity (18 years). It should be noted that foster care and guardianship ends for all children in the care of the State at this age.

Anecdotally again, it seems the numbers of foster carers availing of this option is low. There is a need for research into why so few carers have availed of this 2007 legislative provision. As the psychological processes and the effects of claiming children are gaining greater emphasis in the literature, questions remain about the issue of guardianship. We have identified some issues that need attention:

1. Would a shorter time period, rather than the five-year rule currently required for special guardianship, increase its use?
2. Does the use of guardianship stabilise placements and are there any other effects?

3. What are the processes that surround decision-making in applying for guardianship?
4. How do the knowledge, skills and values of child welfare professionals impact on its use?
5. What role do financial supports play?

Research shows that access to allowances and services should be available for carers, irrespective of legal relationship with the child (O'Brien and Palmer, 2015). Foster carers actively seeking and taking on additional responsibilities may be of symbolic importance to young people in care and, in doing so, address fears faced by children about ageing out of care. It may also indicate that children are more likely to remain in these families after 18 years of age. Research would provide a better picture and the viability of this option in securing permanence for children can be better evidenced.

Adoption and the care system

The Adoption Amendment Bill 2012, which accompanied the constitutional referendum on Children's Rights, offers a new potential route to a permanent living arrangement for children in the care system. The proposals in the Bill lower the threshold of parental abandonment outlined in the 1988 Act. It contains proposals to permit children to be adopted if they are with foster carers for three years or more. Proportionality is also key to the proposals.

Legislative changes

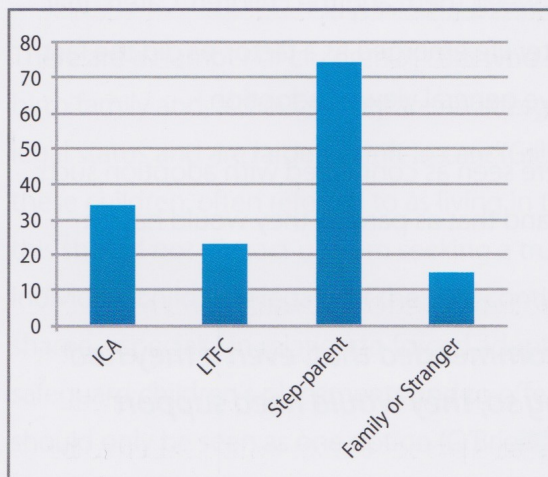
The Adoption Act 1988 made provisions concerning the issue of parental consent by providing for the adoption of children, against the wishes of their natural parents, regardless of their marital status. However, a high threshold was set for abandonment, which was termed as the complete failure of parental duty until the child reached 18 years of age. For decision-making, this meant the right of the family unit was privileged over the right of the child to be adopted. Adoption remains predominantly consensual in nature but the proposals contained in the Adoption Amendment Bill 2012, serve to fundamentally shift this basis (O'Brien and Palmer, 2016).

Changing landscape of adoption

The profile of adoption in Ireland is changing. A snapshot of the 146 adoptions that

occurred in 2014 (see Table 2) shows the variation occurring across the different adoption categories. Parents relinquishing their newborn children (by consent) to adoptive families continue to represent a very small percentage of the overall cohort (15 cases). A total of 23 adoptions related to children adopted out of long-term foster care (LTFC). (A significant number of these would have been contested by birth parents). Step-parent adoptions accounted for 74 family adoptions, while 34 intercountry adoptions (ICA) were registered.

Table 2. Different strands of ICA and domestic adoptions in Ireland in 2014



Note: There is no breakdown separating family and stranger adoptions in the 2014 official statistics. It is likely that the majority of adoptions in this category are stranger, as the bulk of family adoptions are contained in the step-parent category. The intercountry adoptions (ICA) figure represents adoptions that were registered by people habitually resident in Ireland. (Source: O'Brien and Palmer, 2016)

The numbers of children adopted from the care system remains low. Out of a total of 116 adoptions in 2013, 17 were

adopted from long-term foster care. (Adoption Authority of Ireland (AAI), 2015a). This figure rose to 23 in 2014 (AAI, 2014). Many children are adopted in the period prior to their ageing out of the care system. In 2014, for example, 65 per cent of adoptions from long-term foster care occurred when the foster child was 17 years of age (AAI, 2015b). The reasons for adoption at this age have not been researched fully, but anecdotal evidence shows that it is driven in many cases by the foster child's and foster parents' desire for legal permanence.

Adoption is a legal instrument designed to terminate the rights and responsibilities between children and their birth parents and, in so doing, it transfers the rights and responsibilities to another set of parents (Shannon, 2010). Post-adoption supports may be provided and, in some countries (Neil 2007), there is provision for ongoing contact, although provision for legal enforcements concerning same is limited. However, adoption means that parents and the adopted child are then able to live their lives free of child-welfare agency and regulatory involvement. For some children and families in

the Irish care system, this would be a welcome development. It is, however, more complicated than that as many carers, birth families, and young people are aware.

Cregan's (2016) research, based on interviews with foster carers in respect of adoption out of care under the 1988 Act, paints an interesting picture. She reports that carers found a lack of information regarding adoption. Carers who were aware of it were generally cautious about bringing it up in reviews for fear of 'rocking the boat', in terms of their relationship with both birth families and with the agency. They were also somewhat cautious of breaking the legal bond between children and their family members, despite the strong relationship between them and the children. Carers' fear that the child would regret the decision in later life emerged as a factor, as did the fact that carers themselves had a less-than-positive general view of adoption.

On the other hand many positive aspects were seen as connected with adoption such as greater stability, the end of forced access, and that as parents they would have a greater voice.

“ Many of the carers interviewed recommended that, even if they had adopted or were interested in doing so, they would need support and financial help into the future. ”

Cregan's seminal work in an Irish context adds an important dimension to the picture that is evolving.

Outcomes for adoption

Adoption may be a good choice for some children, for some birth parents and some prospective adoptive parents (Conway 2000). The research shows that adoption is successful for the majority of late-placed children and that children show remarkable developmental recovery and catch up in many areas. It could be said that adopters "represent the most potent of therapeutic environments" (Wrobel & Neil 2009, p.9). It is also evident that adoption may not be open to or suitable for all children and families in the long-term foster care system. Disruption can also occur in adoption. It is not necessarily a 'panacea' for all situations and, while there is a body of evidence that shows outcomes can be stronger for children who have been adopted compared to those in care, there are many in the research and professional community who question this

assertion and evidence base. Research is identifying useful measurements of outcomes that go beyond disruption or continuation, but there is still a long way to go in terms of the methodological advancements required to capture differences across the populations and different child welfare systems.

“*Suffice it to say that, in a situation of a contested adoption, it is likely that expert witnesses could be found to provide strong and compelling argument to support pro- and anti-adoption positions based on the available evidence.*”

There are a number of children in care who have lost meaningful relationships with their birth family and, although they are an integral part of their foster family, they have no legal status and are largely adrift in care (Gilligan, 1998). There are no easy answers for these children, often referred to as living in the twilight zone (Shannon, 2002). However, this should not distract us from seeking a truly child-centered and ethical path for each individual child. The legacy of the past continues to evoke a level of societal unease and shame, especially in relation to forced adoptions. While there is an obvious need to safeguard children’s placements and to offer them stability and security, adoption should only be seen as one option (O’Brien and Palmer, 2015).

Conclusion

The options open to provide greater legal security for children in long-term care have been limited to ‘special guardianship’ until recently. There is a data gap in respect of how this facility has been used, by whom and with what outcomes. There is an urgent need to address this information deficit.

The Government’s adoption proposals will need to be handled with transparency and honesty, allowing opportunities to the different stakeholders to deliberate, discuss and debate the key issues. This debate needs to include all those individuals affected by and responsible for legislative change, policy formation and best practice, and its implementation (O’Brien and Palmer, 2015).

If the primary focus of the Adoption Bill 2012 is on the *best interests of the child*, one option should be to find better ways to manage what works within the current foster care system in order to create higher rates of permanency (Palmer, 2015). This should be

used in tandem with long-term foster care, guardianship, and adoption. The complete severance of all legal relationships between the child and their birth family has major implications, not only for the child and family involved but also for future generations. While openness and contact provides for people to know their kinship ties, and this is of enormous benefit, carers are acutely aware that the reality of managing such dynamics is not always easy.

There is also a need to examine different options within long-term foster care and to see how innovations such as 'Home for Life', as developed in New Zealand, might have a role to play in Ireland. Undoubtedly, there is a place for both long-term foster care and adoption in the care system, but a major challenge is to ensure that change does not have unintended consequences. It is imperative that adoption reform does not destabilise the long-term foster care placement option and the existing relationships within it. This is an important consideration, given that foster care is the backbone of the Irish child welfare system. The manner in which the individual child's need and best interests are balanced with the common good will continue to be a fine balancing act. The agency, the social worker, carers, the courts and other professionals need to ensure that sound decisions are made and that both sets of parents (birth and adoptive) and the children involved are offered long-term help with whatever decisions are reached. To this end, a number of pertinent issues facing carers have been outlined in this paper. It is hoped that this deliberation will enable carers and those in the foster care community to take a lead position in this debate.

About the authors

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