

## EAST AYRSHIRE COUNCIL

CABINET – 2 SEPTEMBER 2009

### KEY DEVELOPMENTS IN ADOPTION AND FOSTERING SERVICES

#### Report by the Executive Director of Educational and Social Services

#### 1. PURPOSE

- 1.1 To inform Cabinet of key developments and progress in adoption and fostering services, and to seek approval for appointing an independent chair to the Adoption and Permanency / Fostering and Resources Panels.

#### 2. BACKGROUND

- 2.1 Local authorities currently have a duty to provide adoption and fostering services within the following legal framework:

##### **Fostering Services**

- The Children (Scotland) Act 1995 and subsequent regulations
- Foster Children (Scotland) Act 1984 and subsequent regulations
- Regulation of Care (Scotland) Act 2001 and subsequent National Standards.

##### **Adoption Services**

- Adoption Scotland Act 1978
- The Children (Scotland) Act 1995 and subsequent regulations
- Regulation of Care (Scotland) Act 2001 and subsequent National Standards.

#### 3. KEY DEVELOPMENTS / PROGRESS

- **The Adoption and Children (Scotland) Act 2007**

- 3.1 The Adoption and Children (Scotland) Act 2007 is the outcome of the work of the independent Adoption Policy Review Group (APRG) which was established by the Scottish Executive in April 2001 and chaired by Sheriff Principal Graham Cox QC. The group released two reports, with the latter report "Adoption: Better Choices for our Children" being published in June 2005. It covered a range of fostering and adoption matters with 107 recommendations. The Act received royal assent on 15 January 2007 and will come into force on 28 September 2009.
- 3.2 The new act repeals the Adoption (Scotland) Act 1978, however, changes to operational practice will depend on regulations, court rules, directions and guidance, some of which is not yet available.

- 3.3 The APRG recognised that adoption continues to have an important role for children who cannot be cared for by their birth parents. It also recognised that the “one size fits all” parental responsibilities orders for those children for whom adoption is not the best solution requires to be modernised. The principles for agencies and courts making decisions remains virtually unchanged.
- 3.4 Part one of the Act addresses adoption services, the adoption process, the status of adopted children, adoption support plans, registration and adoptions with a foreign element. The main changes include: new arrangements for unmarried and same sex couples to adopt jointly to adopt and the grounds for dispensing for consent to adoption.
- 3.5 Each local authority has a continuing duty to provide an adoption service in its geographical area, however there is an expanded obligation to provide adoption support services to people affected by adoption. It is recognised that adoption support services are not provided in a uniform manner across Scotland and accordingly the 2007 Act has clarified and enhanced this area of practice. Such services are particularly important for adoptive families needing help with attachment and other issues to avoid disruptions, and for adopted people and birth family members seeking information about past adoptions and access to information. The local authority is also obliged to prepare an adoption allowance scheme by 28 December 2009 and a further report will be submitted to Cabinet on this matter.
- 3.6 With regard to adoption by couples who are unmarried, including same sex couples, section 29 of the 2007 Act attracted publicity during the progress of the Bill. Unmarried couples, including same sex couples, have been involved in adopting children for a considerable time, although current legislation means that only one of them can apply to adopt. The 2007 Act amends the law to permit both prospective parents to adopt which greatly improves the situation for adopted children who will now have two full legal parents instead of parents with different legal status.
- 3.7 Part 2 of the 2007 Act introduces permanence orders, with the purpose of providing long term legal security for children who cannot return to live with their birth parents for whatever reason. It is a new order designed to offer the possibility of a flexible order for long term care, each one dependent on the particular circumstances of the individual child. Permanence orders can be applied for by the local authorities only and require certain mandatory provisions in that the parental responsibility to provide guidance appropriate to the child’s stage of development and the parental right to regulate the child’s residence must rest with the local authority. The application may also seek other parental rights and responsibilities. This means that each permanence order can be tailored to the needs of the individual child, which reinforces the importance of comprehensive assessment of the needs of children. Parental rights can be shared with children’s carers and/or with birth parents reflecting the minimum intervention principle contained at section 84 (3) of the 2007 Act and permits the court to revoke supervision requirements as well as consider subsequent applications to vary the ancillary provisions granted in the original order.

- **Inspection of Adoption and Fostering Services**

- 3.8 Adoption and fostering services are subject to inspection by the Scottish Commission for the Regulation of Care (the Care Commission) on an annual basis. The inspection took place in East Ayrshire in March 2009, and the report and action plans were finalised in June 2009.
- 3.9 For each service, the inspection process involves the completion of an annual return, evidence of self evaluation, file sampling and engagement with foster carers, adoptive parents, children and young people, managers, staff and stakeholders.
- 3.10 The nature of each inspection is decided following a regulation support assessment (RSA), based on the information provided. Both services received a low RSA score, and therefore the inspection was considered to be of low intensity. The inspection is based on areas of focus and associated national standards. This inspection focused on the:
- quality of care and support
  - quality of staffing
  - quality of management and leadership
- 3.11 The Care Commission grading system consists of an overall grade for each specific area of focus eg quality of staffing. Within each of these areas, a number of elements are covered, each receiving a score. The lowest scoring element determines the overall score in the area of focus. The grading system consists of: excellent (6); very good (5); good (4); adequate (3); weak (2) and unsatisfactory (1).
- 3.12 The overall scores for this inspection are set out at Appendix 1 and 2.
- 3.13 The adoption service was graded as good (4) across each of the three areas focus. The strengths included: public information; support to adoptive parents; the participation of adoptive parents in training and information days; the emphasis placed on ensuring the good health and well being of children; the expertise of the staff team; robust arrangements for supervising staff and good systems for ensuring effective performance
- 3.14 For adoption services, the areas for improvement included: the need for a written participation strategy; evidence of consistent recording of the views of children and young people; the need for improved recording of staff supervision, covering learning and development in addition to workload management; and the need to develop methods of engagement with adoptive parents who no longer have regular contact with the service.

- 3.15 In summary, for adoption services, the overall grading was good. No enforcement action or requirements were made during the inspection. Four recommendations were made, and the detail is set out at appendix 3.
- 3.16 The fostering service was graded as good (4) across two of the three areas of focus (quality of care and support and quality of staffing). It was graded as adequate in respect of quality of management and leadership.
- 3.17 The strengths of the fostering service included: good feedback arrangements for foster carers, children and young people to feedback their views about the service; good working relationships between foster carers and their supervising social workers; a range of systems to support the health and well being of children and young people; a consistent, experienced and well respected staff team; and evidence of chief officer and senior manager engagement with foster carers and in understanding the needs of children and young people via corporate parenting events.
- 3.18 For the fostering service, the areas for improvement included: the need for a written participation strategy; the need for clarity about the role of the looked after and accommodated (LAC) nurse by foster carers; the need for clear systems in respect of how the feedback from foster carers, children and young people leads to improved service delivery; and the need for an independent chairing arrangement for the fostering and resources panel, separate to the line management structure.
- 3.19 In summary, for fostering services, the overall grading was adequate. There is no enforcement action and two requirements were made during the inspection. These relate to the need for written risk assessments to be in each child's file, and the need to advertise the local authority's responsibility in respect of private fostering. Ten recommendations were made, and the detail is set out at appendix 4. Action has since been taken to progress the requirements, and the recommendations are addressed in the action plan.

- **Resourcing Carers**

- 3.20 As part of the work taking place within the social work sustainability workstreams in children and family services, consideration is being given to the current resourcing of East Ayrshire's foster carers. This includes both the financial element and the support arrangements eg the short breaks which can be made available to them. These arrangements will be central to the successful recruitment and retention of foster carers. Benchmarking activity has taken place, along with consultation with carers. Options have been developed for the consideration of the Social Work Sustainability Board. The outcome of this work will be presented to a future Cabinet.

- **Member / Officer Working Group: Corporate Parenting**

3.21 The provision of adoption and fostering services is a critical part of our corporate parenting responsibilities. A separate report is being submitted to Cabinet on 2 September 2009 to seek approval of the East Ayrshire Corporate Parenting Action Plan. It proposes that the Member / Officer Working Group which led on the identification of an appropriate site for the new children's house in Kilmarnock, continues with a key remit in monitoring the implementation of the action plan. If approved, the group will have an overview of developments in adoption and fostering services.

#### **4. PROPOSALS AND ACTION**

4.1 Action plans are in place to prepare for the implementation of the new legislation. To date this has included awareness raising sessions for staff and for panel members, however on receipt of the national guidance, operational procedures and standards will be developed and this will require specific staff training.

4.2 Consideration has been given to the need for an independent chair of the fostering and resources panel. While the issue was not raised by the Care Commission, the same applies to the adoption and permanency panel. There is no other manager in the social work service who could take on this responsibility due to the conflict with line management responsibilities or lack of knowledge / expertise in the field. It is therefore proposed that an independent chair is recruited to fulfil the role.

#### **5. LEGAL IMPLICATIONS**

5.1 The Adoption and Children (Scotland) Act 2007 outlines the local authorities responsibilities in relation to adoption services and adoption support services, the process of adoption, the changes to the law in relation to adoption by unmarried couples in an enduring family relationship and the introduction of permanence orders.

5.2 The Looked After Children (Scotland) Regulations 1996 are now replaced by the Looked After Children (Scotland) Regulations 2009 (SSI2009/210).

#### **6. POLICY IMPLICATIONS**

6.1 The proposals contained in this report are consistent with national and local policy in respect of corporate parenting, adoption and fostering service delivery and the regulation of these services.

6.2 New procedures will require to be developed for staff involved in delivering services within the new legal framework of the Adoption and Children (Scotland) Act 2007.

## **7. FINANCIAL IMPLICATIONS**

- 7.1 The impact of the enhanced duties on the local authority to provide adoption support services and adoption allowances are not yet clear. A further report on the financial implications to the existing social work budget will be submitted to cabinet in due course.
- 7.2 Work is taking place to consider how East Ayrshire's foster carers can be best resourced to ensure effective recruitment and retention. The costs associated with this will be the subject of a future cabinet report.
- 7.3 The appointment of an independent chair will cost approximately £40 per hour (£280 per panel), which is equivalent to the sessional rate paid by national agencies e.g. the Social Work Inspection Agency. This would equate to approximately £6160 per annum. These costs will be met within existing resources.

## **8. RISK IMPLICATIONS**

- 8.1 At a service level, there is a need to ensure that this new legislation is implemented effectively to ensure that decision making takes place within this new legal framework. There would be clear operational service and legal risks to the council of any failure to do so.
- 8.2 There are risks associated with not appointing an independent chair to the adoption and permanency panel and to the fostering and resources panel. In particular, this relates to the challenge which may arise in the current chair also having responsibility as line manager of the family placement team.

## **9. EQUALITY IMPLICATIONS**

- 9.1 As highlighted, new procedures will require to be developed in respect of this new legislation. These procedures will be subject to an equality impact assessment to ensure that they appropriately address equality issues.
- 9.2 As noted at 3.6, the new legislation attracted public attention in respect of the ability of same sex couples being able to jointly apply to adopt. It should be noted that this is consistent with policy to ensure equality for same sex couples, and reflects research based findings about the positive parenting which can be provided by same sex couples.

## **10. RECOMMENDATIONS**

10.1 It is recommended that:

- i) a further report on the proposal for a revised adoption allowance scheme is submitted to Cabinet;
- ii) the operational and financial implications of the legislation is quantified, and that this is the subject of a further report to Cabinet;
- iii) Cabinet approve the proposal to advertise for an independent chair of the adoption and permanency panel, and the fostering and resources panel; along with the associated costs; and otherwise
- iv) note the contents of this report.

Graham Short  
Executive Director of Educational and Social Services  
26 August 2009

### **LIST OF BACKGROUND PAPERS**

1. Adoption (Scotland) Act 1978
2. Adoption and Children (Scotland) Act 2007
3. Looked After Children (Scotland) Regulations 2009 (SSI2009/210)
4. Scottish Commission for the Regulation of Care : Inspection report for the East Ayrshire Fostering Service (2009)
5. Scottish Commission for the Regulation of Care : Inspection report for the East Ayrshire Adoption Service (2009)

If you require any further information please contact Susan Taylor, Head of Service: Children & Families and Criminal Justice on 01563 576920.

## Scottish Commission for the Regulation of Care

## Summary of Inspection Findings

## ADOPTION SERVICE

AREA OF FOCUS	GRADING
<p><b>QUALITY OF CARE AND SUPPORT</b></p> <p><b>Elements: Standard 1.1 and 1.3</b></p> <p>1.1 – We ensure that service users and carers participate in assessing and improving the quality of the care and support provided by the service.</p> <p>1.3 – We ensure that service user’s health and wellbeing needs are met.</p>	<p><b>OVERALL GRADING - 4 (Good)</b></p> <p>4 (Good)</p> <p>4 (Good)</p>
<p><b>QUALITY OF STAFFING</b></p> <p><b>Elements: Standard 3.1 and 3.3</b></p> <p>3.1 – We ensure that service users and carers participate in assessing and improving the quality of staffing in the service.</p> <p>3.3 – We have a professional, trained and motivated workforce which operates to National Care Standards, legislation and best practice.</p>	<p><b>OVERALL GRADING - 4 (Good)</b></p> <p>4 (Good)</p> <p>4 (Good)</p>
<p><b>QUALITY OF MANAGEMENT AND LEADERSHIP</b></p> <p><b>Elements: Standard 4.1 and 4.4</b></p> <p>4.1 – We ensure that service users and carers participate in assessing and improving the quality of the management and leadership of the service.</p> <p>4.4 – We use quality assurance systems and processes which involve service users, carers, staff and stakeholders to assess the quality of service we provide.</p>	<p><b>OVERALL GRADING – 4 (Good)</b></p> <p>4 (Good)</p> <p>4 (Good)</p>

## Scottish Commission for the Regulation of Care

## Summary of Inspection Findings: Adoption &amp; Fostering Service

## FOSTERING SERVICE

AREA OF FOCUS	GRADING
<p><b>QUALITY OF CARE AND SUPPORT</b></p> <p><b>Elements: Standard 1.1 and 1.3</b></p> <p>1.1 – We ensure that service users and carers participate in assessing and improving the quality of the care and support provided by the service.</p> <p>1.3 – We ensure that service user’s health and wellbeing needs are met.</p>	<p><b>OVERALL GRADING - 4 (Good)</b></p> <p>4 (Good)</p> <p>4 (Good)</p>
<p><b>QUALITY OF STAFFING</b></p> <p><b>Elements: Standard 3.1</b></p> <p>3.1 – We ensure that service users and carers participate in assessing and improving the quality of staffing in the service.</p> <p>3.3 – We have a professional, trained and motivated workforce which operates to National Care Standards, legislation and best practice.</p>	<p><b>OVERALL GRADING - 4 (Good)</b></p> <p>4 (Good)</p> <p>4 (Good)</p>
<p><b>QUALITY OF MANAGEMENT AND LEADERSHIP</b></p> <p><b>Elements: Standard 4.1</b></p> <p>4.1 – We ensure that service users and carers participate in assessing and improving the quality of the management and leadership of the service.</p> <p>4.4 – We use quality assurance systems and processes which involve service users, carers, staff and stakeholders to assess the quality of service we provide.</p>	<p><b>OVERALL GRADING – 3 (Adequate)</b></p> <p>4 (Good)</p> <p>3 (Adequate)</p>

## Scottish Commission for the Regulation of Care

## Summary of Inspection Recommendations

## ADOPTION SERVICE

<b>RECOMMENDATIONS</b>
1. The service should develop and implement a Participation Strategy. The service should ensure that feedback obtained from children, young people and adoptive parents is used to improve the quality of the service provided.
2. The service should ensure that children and young people's views are consistently sought and recorded.
3. The service should develop the format of the supervision record so that it accurately reflects the supervision of adoptive parent's guidance and discussion regarding staff development.
4. The service should continue to consider methods of engaging with adoptive parents who no longer have regular contact with the service.

## Scottish Commission for the Regulation of Care

### Summary of Inspection Recommendations

#### FOSTERING SERVICE

<b>REQUIREMENTS</b>
1. The service must ensure that written risk assessments are undertaken for each child. They must also ensure that written risk assessments are in each child's file to ensure appropriate measures are taken to safeguard each child's welfare.
2. East Ayrshire Council must ensure that it develops and implements systems for advertising widely its responsibilities in relation to private fostering.
<b>RECOMMENDATIONS</b>
1. The service should develop and implement a participation strategy. The service should ensure that feedback obtained from all children, young people and foster carers is used to improve the quality of the service provided.
2. The service provider should ensure that there is a consistency in the recording of foster care supervision.
3. The service provider should ensure that all foster carers are fully aware of the role of the LAC Health team in supporting them in the care of children and young people.
4. The service provider should ensure that all foster carers children and young people are fully aware of the Framework Standards for Child Protection and the Children's Charter.
5. The service should ensure that an annual training plan is in place for Fostering Panel members.
6. The service provider should ensure the independence of the fostering panel chair person.
7. The service should ensure that quality assurance systems to monitor the work of the service were applied consistently.
8. The service should ensure that systems are in place to obtain feedback from children's social workers on the quality of the fostering service. The quality of the feedback should be sufficient to inform the service in order that improvements could be made.
9. The service should ensure that all stakeholders are provided with opportunities to feedback their views on the quality of the service.
10. The service should ensure that foster carers are provided with clear information regarding recording information of children in placement and why this is necessary. The service should ensure that information for each child is recorded separately. There should be evidence that supervising social workers are auditing foster carer records of children in placement.