



HOUSE OF LORDS

Select Committee on the Children and Families Act 2014

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Rt Hon Nadhim Zahawi MP
Secretary of State for Education
Department for Education
Great Smith Street
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Dear Secretary of State,

Many thanks for the post-legislative memorandum on the Children and Families Act 2014, which the Department for Education compiled on behalf of the Government. We are grateful too to those officials from your department and the Ministry of Justice who gave us oral evidence last week. We were pleased to hear that the SEND Green Paper will be released by the end of this month.

We have now had time to consider the memorandum in detail, having received it only two working days before the evidence session. Although the memorandum and the officials provided helpful information, we are concerned that in many areas in the Act little or no rigorous evaluation appears even to have been attempted. There appears to have been a lack of focus on monitoring the Act's effect – perhaps in part due to its cross-cutting nature.

We would be grateful if the Government could answer the following supplementary questions.

Part I – Adoption

1. Why was the memorandum not produced before the Committee requested it? Is it normal practice for no post-legislative memorandum to have been produced for an Act 8 years after it received Royal Assent? What plans were made when the Bill was drafted for monitoring and evaluation?
2. Paragraph 20 provides data relating to early permanence arrangements. Please could you provide data specifically for fostering to adopt?
3. Paragraph 23 provides data on waiting time for Black and minority ethnic children. Please could you provide data for different ethnicities and – if possible – religions, rather than treating Black and minority ethnic children as a homogenous group?

4. Paragraph 26 states: “Children are moving in with their adoptive families more quickly and greater numbers of adoptive families are getting the support they need.” Please could you provide evidence for this?
5. Paragraph 29 states that section 5 was not commenced due to feedback from the Adopter Reference Group. Was this feedback sought prior to the Act’s passage? Has the Government made any further assessments in this area?
6. Paragraph 33 suggests that the statutory Adoption Register failed to provide up to date, accessible information. What assessment did the Government make of why this was the case before closing it down? What assessment has the Government made of the value for money of the Link Maker register?
7. Paragraph 39 refers to an announcement in July 2020 about working with RAA leaders to develop and trial good practice on contact arrangements. Please could you provide an update on the progress of this and an indication of the timescales for any further work?
8. Sophie Langdale, Director, Children’s Social Care Strategy and Practice at the Department for Education, told us: “Waiting times, for example, have decreased from 18 months to 15 months since the Act received Royal Assent.” However, the department’s website states: “On average, it takes 2 years and 2 months for a child to be adopted and this time has been increasing, up from 1 year and 11 months in 2018.” Please could you explain how these statistics can be reconciled?

Part 2 – Family Justice

9. Paragraph 48 states that uptake of MIAMs and mediation has been lower than anticipated. What has the uptake of each been and what uptake had been anticipated?
10. What assessment, if any, has the Government made of the introduction of child arrangement orders?
11. What is the anticipated timescale for the Family Justice Board’s work on the use of experts and will the findings be published?
12. Paragraph 60 notes that “since 2016, there has been a yearly increase in average case duration in public law proceedings.” What assessment has the Government made of why case durations were rising before the onset of the pandemic? Please could you provide further details on how the Government plans to “continue to strive to support courts to conclude cases in a timely way”?
13. Paragraph 67 states that the Government ‘thinks’ that the greater emphasis on the importance of permanence considerations has been seen positively and had a positive impact. On what basis?

Part 5 – Welfare of children

14. Paragraph 186 states that it is “impossible to accurately assess the impact” of sections 96 and 97. Does the Government regret not putting in place reporting requirements, or have any plans to do so in future?

15. Will the Government’s innovation fund extend to young carers?

16. What is the Government’s “good evidence” that Virtual Schools Heads have had a significant impact on outcomes for children in care, beyond the fall in the permanent exclusion rate from 0.14% to 0.11%?

17. Paragraph 100 states in relation to section 100 that “the department does not monitor compliance with the duty and has not carried out any research on the impact of this duty.” Why not?

18. Has the Government evaluated the value for money of the free school meals provision or its effect on educational attainment and health outcomes?

Part 6 – Children’s Commissioner

19. What assessment has the Government made of whether the Children’s Commissioner has the right powers?

I look forward to receiving the Government’s responses and to discussing these issues at a ministerial evidence session in September.

Baroness Tyler of Enfield

Chair of the Select Committee on the Children and Families Act 2014

CC: Rt Hon Dominic Raab MP, Secretary of State for Justice, Lord High Chancellor and Deputy Prime Minister