



**Will Quince MP**

Parliamentary Under-Secretary of State for Children and Families

Sanctuary Buildings 20 Great Smith Street Westminster London SW1P 3BT  
tel: 0370 000 2288 www.education.gov.uk/contactus/dfe

19 April 2022

**RE: Lords Select Committee on the Children and Families Act 2014 Written Questions March 2022**

Dear Baroness Tyler of Enfield,

Thank you for considering my Department's Children and Families Act 2014 post-legislative scrutiny memorandum and for your letter detailing supplementary questions following the oral hearing session in March. We welcome the opportunity to provide further evidence ahead of a Ministerial oral hearing session in September.

[The department have liaised with Ministry of Justice on **Part 2: Family Justice**]

**Part 1: 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?***

The Department for Education takes evaluation of its policies very seriously. Whilst the department has not carried out full post-legislative scrutiny of the Children and Families Act 2014 (CFA) before now it has continually evaluated the state of services for children and young people in the round.

This has been through the monitoring of key datasets, assessment of service use and quality (including those sections that the CFA made provisions for), regular dialogue with stakeholders including families and young people, and the outcomes of various Ofsted and CQC local area inspection processes.

Where required, the department updates guidance and legislation - for example, [Adoption, A vision for change](#) (March 2016) sought to improve multi-agency working and further reduce adoption waiting times; and, where services don't meet the needs of children and young people, the department acts quickly and efficiently to ensure local authorities improve their services through a variety of bespoke support and intervention approaches. The department's local authority

improvement programme sees authorities rated Good and Outstanding support other local authorities' improvement by sharing good practice; and, where services are failing the department intervenes. For example - in Sunderland, the children's services trust is now rated Outstanding three years after their 2018 Inadequate judgement, and after almost a decade of deeply entrenched failure, children's services in Birmingham are no longer inadequate.

Given the wide-ranging cross-Government nature of this Act, DfE has taken the view that each department policy area should lead on assessing the policy areas covered, and where they are not working or being used, seek to address the issues.

The Department does however recognise the need for overall assessment of the CFA as a whole and has welcomed the opportunity to review.

**2. Paragraph 20 provides data relating to early permanence arrangements. Please could you provide data specifically for fostering to adopt?**

We do not collect the data breakdown of Fostering to Adopt, only early permanence arrangements overall, which include concurrent planning placements. A concurrent planning placement is where the adoption agency are working towards family reunification whilst at the same time developing another permanence plan, where family reunification may not happen.

**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?**

The table below shows the Adoption and Special Guardianship Leadership Board's latest unpublished analysis of the average waiting times for children who have a placement order, but have not yet been placed with a new family. It shows this from the point they have entered care broken down by ethnicity as at the 31<sup>st</sup> March 2021.

<b>Average Time Spent Waiting (months) from Entry into Care to 31 March 2021</b>		
	All Children	21
White	White British	20
	White Irish	19
	Traveller of Irish Heritage	17
	Gypsy/Roma	23
	Any other White background	23
Mixed	White and Black Caribbean	20
	White and Black African	24
	White and Asian	24
	Any other mixed background	22
Asian or Asian British	Indian	21
	Pakistani	21
	Bangladeshi	27
	Any other Asian background	19
Black or Black British	Caribbean	30
	African	33
	Any other Black background	27
Other ethnic groups	Chinese	9
	Any other ethnic group	20
Other	Refused	14
	Information not yet available	12

We do not collect data on the religion of children waiting for adoption.

**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?**

Waiting times for children who enter care to be placed with their adopted family have decreased from 22 months in 2012-13 to 18 months in 2014-15 after the Act received Royal Assent. We have seen a further decrease to 16 months in 2020-21.

More families are getting the support they need following the launch of the Adoption Support Fund (ASF) in 2015. The fund was created to ensure adopted children could access the therapeutic support they need in a timely manner. In 2021-22, 18,505 children received support. Very few families received such support before 2014. The ASF continues to have a positive impact on the adopted children it helps as shown in the various ASF evaluation reports which can be found here: <https://www.gov.uk/government/collections/evaluations-of-the-adoption-support-fund-asf>

Since 2018 adoptive parents have also had the support of school designated teachers and local authority Virtual School Heads, to improve their children's educational achievement.

**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?**

The Adopter Reference Group was set up in 2015. We have no record of any feedback being sought prior to the Act's passage. We have since made no further assessments of personal budgets as we have prioritised other areas of adoption policy.

**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?**

Before taking the decision to close the adoption register, the Government spoke to local authorities who said their preference was to use Link Maker over the Adoption Register. This was because they felt the Register was not as good as the service offered by Link Maker, even though they had to pay for this service. Since some LAs would not use the Register, and all LAs were using Link Maker, we could no longer justify paying for the Register on value for money grounds.

We have made no value for money assessment on services provided by Link Maker, as it is not funded by central government.

**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?**

On page 8 of the memorandum it stated that the announcement was July 2020. The correct date should have been July 2021 - when we launched our National Adoption Strategy.

Improving adoption support services, including contact support services, is a priority within the 3-year Strategy. RAA leaders do not have a firm timetable in place to improve contact support services but are already in discussions with Link Maker on how to improve the letter box contact system by using emails and other technology via their system.

**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?**

The statistic used should have read 16 months not 15 months. However, the statistics are counting different periods in the adoption system which is why the timings differ. The government website annual statistics count the period from when a child enters care to when the adoption order is made.

The statistic used by Sophie Langdale at the committee, covered the period the child enters care to when they are placed with their new family. This gives a better reflection of the time it takes for a child to be placed with their new family.

## **Part 2: Family Justice**

### **9. *Paragraph 48 states that uptake of Mediation Information and Assessment Meetings (MIAMs) and mediation has been lower than anticipated. What has the uptake of each been and what uptake had been anticipated?***

The Government did not publish any specific targets with regards to MIAM uptake but exemptions from the requirement to attend a MIAM were intended to be the exception.

Data collected from HMCTS between 2020-2021 suggests that only 35% of applicants to the family court attended a MIAM when their application type would have required MIAM attendance unless a valid exemption were claimed. Data from the Family Mediation Council's 2019 survey suggests that, when family mediators see both applicant and respondent for a MIAM, they have a high conversion rate of 73% to mediation. We are currently considering if the number of MIAM exemptions can be reduced to enable more MIAMs to take place. For example, there is currently an exemption for attending a MIAM if there are no authorised family mediators within fifteen miles of an applicant's home. However, with the significant recent increase in virtual MIAM delivery, the need for an exemption due to geographical location may no longer be required which could, in turn, lead to an increase in MIAM attendance.

The Ministry of Justice launched the family mediation voucher scheme on 21<sup>st</sup> March 2021, which offers up to £500 towards eligible mediation cases, and is designed to encourage people to resolve their disputes outside of court where appropriate to do so. Uptake has been strong, and in January 2022 we increased the scheme's funding to just under £3.3m, to extend it to the end of the 2021/2022 financial year. Family Mediation Council survey data recorded where vouchers were issued suggest that 65% of separated parents reached whole or partial agreement and did not go on to attend court, and a further 3% only attended court to secure a consent order to formalise their agreement.

### **10. *What assessment, if any, has the Government made of the introduction of child arrangement orders?***

Child arrangement orders encourage the use of language and terminology that is positive and solutions-focussed, rather than adversarial. This has supported professionals and users of the family justice system to focus on the welfare and best interests of the child.

The Government has not made any formal assessment 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?**

The Family Justice Board is currently undertaking work to identify those children's cases that are in the family justice system the longest and understand the potential drivers of these delays. Early insights from this work have identified the use of expert assessments as one of the potential causes of delay in the family courts. The findings from this work, together with proposed recommendations and solutions for addressing these delays will be considered at the next National Family Justice Board meeting planned for June 2022. The Minutes from this meeting will be published on gov.uk, as is the case with all meetings of this Board.

**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"?**

We recognise that, since 2016, before the onset of the COVID-19 pandemic, there has been an increase each year in the average duration of public law children's cases<sup>1</sup>. Given the importance of children and families receiving timely conclusions to their cases, we are prioritising work to address these delays, in partnership with the judiciary and stakeholders across the family justice system.

We know that the COVID-19 pandemic had a profound impact on the family justice system, exacerbating the existing delays in family court proceedings. The Government considered possible ways to address the immediate pressures within the system. Technology allowed courts to hear most family cases remotely, and this technology support will continue to offer ongoing flexibility around how courts progress cases. Temporary changes were made to court procedures to introduce new efficiencies for judicial and court staff. Courts have been prioritising urgent cases, including public law care and supervision cases.

As noted above, and in the 'Memorandum to the House of Lords Special Select Committee', we are developing proposals to address the reasons behind children's cases that are in the system for the longest. We are also considering how best to extend the reach of the DfE-funded work which is rolling out a Public Law Outline (PLO) toolkit across seven regions in England to improve practice at the pre-proceedings stage. Our ambition is for all regions to benefit from this training and support - which focuses on ensuring that any action to bring a case to court is necessary, timely and in the child's best interest - and for this work to continue to drive improvement in practice in the longer term.

---

<sup>1</sup> [Family Court Statistics Quarterly: July to September 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/family-court-statistics-quarterly-july-to-september-2021)

**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?**

Whilst the family courts must give proper scrutiny to the issues relating to a child's welfare in each case, we think that the introduction of the requirement for a court to consider the permanence provisions of a section 31A care plan has refocused the attention of the courts, and of others involved in public law cases, on the core decision to be made – whether a child should be removed from their parents, whilst enabling cases to be brought to more timely conclusions.

We see this in the guidance<sup>2</sup> accompanying the President of the Family Division's recent 'A View from the President's Chambers'<sup>3</sup> note (March 2022) on 'Making Every Hearing Count', where the President describes the importance of reconnecting with the recommendations in the 2011 Family Justice Review<sup>4</sup> which were 'encapsulated' in this requirement - including that 'courts should refocus on the core issues of whether the child is to live with parents, other family or friends, or be removed to the care of the local authority' – and that it is 'only by applying this narrow statutory focus to each case that the 26 week deadline can be met'.

By encouraging this tighter focus on the core issue to be determined, thereby enabling decisions to be made at a quicker pace, we consider the introduction of this requirement to be a positive step towards minimising delays in family court proceedings which could have a negative impact on children and families.

---

<sup>2</sup> [Microsoft Word - President's Case management guidance March 22.docx \(judiciary.uk\)](#)

<sup>3</sup> [A View from The President's Chambers: March 2022 | Courts and Tribunals Judiciary](#)

<sup>4</sup> [Family Justice Review Final Report \(publishing.service.gov.uk\)](#)

## **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?***

It is the view of the Government that local authorities are best placed to listen to and understand the needs of carers (including young carers) in their areas, and best positioned to ensure the services required to meet the needs of carers are available. A carer's assessment is an individual assessment of need and the support required may be specific to that individual and their family. We do not believe it would be helpful to be prescriptive around how these needs are met, favouring local flexibility as the best approach to meeting diverse needs. This necessarily means that assessing the impact of sections 96 and 97 at a national level would be extremely challenging and would create a substantial burden of reporting for local authorities.

Being a young carer was identified as a factor at the end of the children's social care assessment for 17,520 children in England, out of a total of 625,960 assessments for year ending March 2021 (Note: the majority of assessments record more than one factor at end of assessment so we cannot confirm that these were all young carers assessments).

However, we recognise that there is a lack of hard data and evidence on outcomes for young carers. That is why we made the commitment, in the [adult social care reform white paper](#), for the Department for Education to amend the school census, to include young carers, at the earliest opportunity – and this could be as early as the 2022-23 academic year. This change will raise the visibility of young carers in the school system and shine a light on their educational achievement. It will provide a wealth of demographic evidence on the young carer population, allowing us to understand the impact of caring, as well as headline information on educational progress and attainment.

### ***15. Will the Government's innovation fund extend to young carers?***

The respite innovation fund is focused on increasing access to respite care and short breaks. These services are available to support disabled children and young people and their families. One aim of the new fund is to test innovative models of delivery, and this may include a service offer for families which also provides support for young carers. Local authorities were invited to bid for year 1 projects, with the bid setting out the area's proposals, including how the proposed project would meet an identified unmet need. Where local authorities recognised a need for support for young people acting as carers for a disabled child (most commonly siblings) this could form part of their bid. All bids were assessed against the programme aims as well as financial and project management arrangements, with the highest scoring bids being awarded funding. Future rounds of the programme will operate on a similar basis and any area which bid for year 1 funding but was

unsuccessful will be provided with detailed feedback to enable them to improve their bid should they wish to reapply in year 2 or year 3.

**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 0.1 1%?**

The [Children in Need Review](#) recognised the role that Virtual School Heads (VSH) play in raising aspiration and promoting the educational achievement of looked-after children and, since 2018, previously looked-after children and, as a result, recommended that the VSH role should be extended further to offer strategic educational oversight of all children with a social worker.

The Rees Centre also recommended the extension of the role of the VSH to Children in Need in [research into the educational attainment of children in care and children in need](#), highlighting that there would be strong advantage in virtual schools overseeing Children in Need as well as Children in Care (and we have appointed the Rees Centre as our research partner on both our programme of work to extend the role to children in need and on the pilot to test use of pupil premium plus style funding for looked-after children and care leavers in further education)

The [Timpson Review of School Exclusion](#) highlighted that 'there is good evidence that VSHs in particular are effective in supporting schools', noting that rates of permanent exclusion for looked-after children began to fall in the year they were introduced.

[Recent research conducted by Isos and published by the DFE](#) looking at how local authorities support vulnerable children highlighted very positive feedback, from schools, academy trust leaders and local authorities, about the virtual school as a model for supporting the education and development of children in care.

The persistent absence rate for looked-after children has remained consistently lower than for all children since the VSH role was introduced (12.5% compared to 13.4% at Autumn 2019), and considerably lower than the rate for Children in Need (31.2%).

Research conducted by the Rees Centre on the [educational progress of looked-after children](#) suggests that care may be a protective factor, with young people in care for longer, and in stable care and education placements, having better educational outcomes. At Key Stage 2, looked-after children with no identified special educational need typically progress as well or better than all other pupils in all subjects.

The role of Virtual Schools is recognised within Ofsted's Inspections of Local Authority Children's Services (ILACS) framework, which instructs inspectors to look at the effectiveness and impact of the virtual school on the educational progress of children in care. Recent ILACS inspections have recognised VSHs' strong leadership and direction, with good evidence of improved outcomes at

individual LA level.

**17. Paragraph 210 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?**

As part of the new Ofsted school inspection framework introduced in 2019, we ensured that the needs of this particular group of pupils were considered in every school inspection.

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

The primary aim of universal infant free school meals is to provide a free, healthy and nutritious meal at lunchtime to all infant pupils.

Take-up of the meals is a key success measure for universal infant free school meals (UIFSM) and has been consistently strong, around 88% of eligible infants<sup>5</sup>.

The Department for Education and the Department for Health carried out a robust pilot of universal free school meals between 2009 and 2011<sup>6</sup> and UIFSM has been evaluated independently, including by the Education Policy Institute in January 2018<sup>7</sup>

We know that by giving children a free school meal and a balanced diet and encouraging children to try healthier options will help them avoid health problems in later life, including obesity. The latest childhood obesity stats show 14.4% of reception age children are obese, with a further 13.3% overweight. At age 10-11 (year 6), 25.5% are obese and 15.4% overweight.<sup>8</sup>

---

<sup>5</sup> [Schools, pupils and their characteristics, Academic Year 2020/21 – Explore education statistics – GOV.UK \(explore-education-statistics.service.gov.uk\)](https://www.gov.uk/explore-education-statistics)

<sup>6</sup> [Free school meals pilot: impact report - GOV.UK \(www.gov.uk\)](https://www.gov.uk/free-school-meals-pilot-impact-report)

<sup>7</sup> [Evaluation of Universal Infant Free School Meals - The Education Policy Institute \(epi.org.uk\)](https://www.epi.org.uk/evaluation-of-universal-infant-free-school-meals)

<sup>8</sup> [National Child Measurement Programme, England 2020/21 School Year - NHS Digital](https://www.nhs.uk/national-child-measurement-programme)

## **Part 6: Children's Commissioner**

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

The Children's Commissioner's role is to promote and protect the rights of children. The Commissioner is required, under section 8(1) of the Children Act 2004, to publish an annual report which sets out the way in which she has discharged her functions, and what she has found in the course of exercising those functions. This report is sent to the Secretary of State for Education and laid before each House of Parliament.

As noted in the Post-Legislative Scrutiny Memorandum, the Commissioner has used powers provided through legislation in several contexts. For example, the Commissioner has put in place a helpline service, 'Help at Hand', which exercises the power to provide advice and assistance to vulnerable children. The Commissioner has also extensively used the power to enter premises to conduct interviews or observe standards in settings such as Mental Health Hospitals and specialist Children's Homes, and to report on children's experiences.

In addition, the Commissioner has data gathering powers and this is often cited by the Commissioner and her office as a useful power. Most recently the Commissioner has used this power to gather data on children "missing" from education.

At a recent Education Select Committee (January 2022), a representative from the Office of the Children's Commissioner was asked what further powers their organisation should be given, "in order to scrutinise and improve educational experiences of children in children's homes". They stated that 'it is not that we require a further power; it is that we want people to listen to the messages that we learn'.

The Department has a close working relationship with the Children's Commissioner and her office and is content that the Commissioner has the right powers to carry out their primary functions as set out in the Children Act 2004.

I hope these responses are useful, and I look forward to our further engagement later this year.

Yours faithfully,

**Will Quince MP**  
**Parliamentary Under-Secretary of State for Children and Families**