

# Permanently Progressing?

Building secure futures for children in Scotland

## Decision Making for Looked After Children in Scotland

### *Insights for policymakers and practitioners*

Every year thousands of children in Scotland become looked after either at home or away from home. Many of those children will remain with or be reunified with their parents, but others will be placed permanently with kinship carers, foster carers or adoptive parents. The decisions made will have far-reaching consequences for children and their families, so it is important to understand what factors influence decision making processes.

This briefing paper draws on findings from Phase One of the *Permanently Progressing? Building secure futures for children in Scotland* research study (2014-2018). The study followed the progress of all children who became looked after in Scotland aged five or under in 2012-2013 (n=1,836) investigating decision making, pathways, and outcomes. This paper provides insights into the processes and pressures that influence decision making for looked after children in Scotland.

It is produced at a time when systems are under review given that in 2017 the Scottish Government established the Independent Care Review, examining the underpinning legislation, practices, culture and ethos of Scotland's care system.

### Key findings

- The legislative, policy and practice context for permanence decisions in Scotland is complex. The range of options offers flexibility to tailor decisions to a child's needs but is potentially overwhelming.
- Decision making can be driven by processes and policies rather than a child's specific needs. Use of legislation and guidance varies across Scotland, with differences in local practice.
- Making decisions is intellectually and emotionally challenging.
- The interface between local authorities, Children's Hearings and courts was characterised as difficult and complicated; the focus can shift from the child to the dynamic between the systems and individuals involved.
- Decisions are influenced by capacity issues in terms of time, resources (including availability and number of carers or adoptive parents) and the skills and knowledge of professionals.
- The formalisation of kinship care has been a positive development, however, it does not meet the needs of all children and an emphasis on kinship care may exclude some children from other forms of permanence.



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## Study

One part of the study, the Decision Making for Children strand explored the following questions from the perspectives of decision makers across Scotland:

- How are decisions about permanence made and implemented?
- What are the main factors that influence decision making?
- What influences the choice of permanent placement and the route taken?

During 2015-17, 160 decision makers were interviewed across Scotland. These included social workers and allied professionals, members of Children's Hearings, Reporters to the Children's Hearings, independent consultants, members of permanence panels, and a sheriff.

## Where are decisions about permanence made and implemented?

Legislation and policy underpinning permanence vary across the United Kingdom, and the context in which decisions about permanence in Scotland take place is complex. Decisions about children are made within local authorities, Children's Hearings and courts, and a child may be involved in all three systems at some point.

## What are the main factors that influence decision making?

Systems can be hard to navigate; the knowledge that some participants had of key legislation, research, and processes was not always accurate. Moreover, making decisions about permanence is intellectually and emotionally demanding, and often contested, and this affects the people involved and the way that processes operated.

Resources were reported to have an impact on decision making and timescales. Delays in progressing children's plans were associated with staffing issues, including high caseloads, social worker retention rates, and sickness absence. Some participants described lengthy waits for a court hearing, and in some cases, insufficient medical advisers were reported to cause delays. The capacity and skills of those involved and the availability of sufficient numbers of good carers and adopters with realistic expectations of children and a clear understanding of possible challenges ahead also emerged as important.

Decisions about contact can be the site of conflict. Contact arrangements with those people who are important to the child (including birth parents, siblings, extended family members, and previous carers) need to be driven by sensitive, attuned, decision making, and be flexible, given that a child's needs may change over time.

## What influences the route to permanence?

Legislation and policy are based on the presumption that unless it is unsafe, children will remain or return to their parents, and that the child's needs are paramount. Reunification was the primary aim, and practitioners looked for tangible changes to enable children to return to parents safely. A key driver for planning permanence away from parents was a lack of progress in relation to the child's plan. It was evident that decision making within timescales which meet the needs of the child and their parents may not always be possible, particularly where there are longstanding family difficulties. However, it is possible to engage with a child and their parents in a way that recognises their differing needs, and is also empathic and sensitive.

Where decisions have been made that a child cannot safely return home, several factors influenced the child's route and timing to an alternative permanent placement, including age, levels of contact with birth parents, whether they have siblings, the degree of trauma experienced, whether the child has a disability, and the degree of medical uncertainty. In some areas, participants talked of 'unwritten' rules that influenced perceived 'place-ability' for some forms of permanence.

Kinship Care Orders were introduced during the study. Different approaches to kinship care within and across local authorities appeared to be linked to team and management cultures and beliefs, rather than always driven by a child's specific needs. The complex nature of kinship care, which includes responding to the needs of the child while also managing family relationships, was identified. While recognising the benefits to the child which kinship care can bring, an early emphasis on kinship care may exclude some children from other forms of permanence if the kinship placement is not sustained.

For children who can neither return home safely, nor live permanently with kinship carers, participants viewed adoption as the preferred option, particularly for younger children. In Scotland, there are two routes to adoption, and geographical differences remain as to whether adoption is achieved via a Direct Petition, or via a Permanence Order with Authority to Adopt.

## Implications for policy and practice

- Professionals involved in making decisions about children's journeys to permanence require sufficient ongoing support and training to equip them for the intellectually and emotionally demanding nature of decision making.
- The legislative, policy, and practice context for permanence decisions in Scotland offers flexibility. However, the drawback is the potentially overwhelming range of possible pathways to permanence, and systems which are difficult to navigate. Any changes which compound this should be avoided.
- Local customs and processes play a role in the choice of placement and the legal route to permanence. Authorities should share information to develop a culture of best practice, questioning how far customs and culture are influencing decisions for individual children.
- The formalisation of kinship care in Scotland has been a positive development, but cannot meet the needs of all children. Further analysis of the longer-term outcomes of children in kinship care, and the current system of support, would be beneficial in informing future policy development.
- Decision about contact arrangements between children and their birth parents, siblings, extended family and former carers can be contentious. Decisions need to be sensitive, attuned, and flexible, given that a child's needs may change over time.

This briefing is based on research undertaken by:

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