



## 1. Overview

1.1 The Department of Health and Social Care are conducting this consultation to seek your views on a new Adoption Bill for the Island.

1.2 The consultation asks questions about the Bill. Please answer all of the questions ensuring that you include all comments so that we can fully understand and consider your views.

1.3 Any comments or questions about the consultation should be sent to:

Georgina Jones  
Department of Health and Social Care  
Crookall House  
Demesne Road  
Douglas  
Isle of Man  
IM1 3QA

email: [dhsconsultation@gov.im](mailto:dhsconsultation@gov.im)

1.4 If you cannot contact us in writing for any reason, please telephone us on 642608.

1.5 The consultation:

Starts: **Monday 14<sup>th</sup> September 2020**

Ends: **Friday 23<sup>rd</sup> October 2020**

1.6 If you do respond to the consultation, please advise us if you are responding yourself or on behalf of an organisation.

1.7 To ensure that the process is transparent and consistent with the Government's Code of Conduct on Consultation<sup>1</sup> responses can only be accepted if you provide your name with your response.

1.8 The draft of the Bill has been prepared for the purposes of the consultation. Further refinement of the layout and content of the Bill may be undertaken in light of the responses to the consultation. Please note however that the responses we receive do not mean that changes will necessarily be made to the Bill we are proposing.

1.9 A summary of the responses will be published online after the consultation has closed. You can request a hard copy by sending an email to [dhsconsultation@gov.im](mailto:dhsconsultation@gov.im) or telephoning Crookall House on 642608.

---

<sup>1</sup> [http://www.gov.im/lib/docs/cso/consultations/code\\_of\\_practice\\_on\\_consultation\\_200.pdf](http://www.gov.im/lib/docs/cso/consultations/code_of_practice_on_consultation_200.pdf)

1.10 Unless you tell us otherwise, any answer that you give in the consultation may be published either in full or in part, along with your name or the name of the organisation. There will be the opportunity in the consultation for you to tell us if you do not want your name or comments to be published.

1.11 If your response is kept confidential and is not published, we will include it in any statistical summary and numbers of comments received.

## 2. **Why we are consulting**

2.1 Legislation affecting children is of utmost importance to the Department. The Department has been developing policy in relation to adoption over the past few years.

2.2 This consultation is an information and evidence gathering exercise so that the Department can make an informed decision about the Bill.

2.3 Your views are important to us and we encourage you to share any thoughts you have with us.

## 2.4 **Your information**

2.5 **What is your name?** (Not Mandatory)

Name

3.2 **What is your email address?** (Not Mandatory)

If you enter your email address then you will automatically receive an acknowledgement email when you submit your response.

Email

## 3.3 **May we publish your response?**

Please read the Cabinet Office consultation hub Privacy Policy.

Yes, you can publish my response in full

Yes, you may publish my response anonymously

No, please do not publish my response

**3.4 If you are completing the survey as an Individual, please select the category that describes you best**

Please select only one item

- Adopted person
- Carer
- Family/friend
- Isle of Man Resident
- Non-Isle of Man Resident
- Politician (national)
- Politician (local)
- Care Facility Owner
- Legal Professional
- Care Provider (private)
- Care Provider (public sector)
- Health or Welfare Professional
- Medical Professional/GP
- Other (please specify below)
- other:

**3.5 If you are completing the survey on behalf of an Organisation or group, please provide the name of the organisation (or group):**

Please select only one item

- Political (national)
- Political (local)
- Care Facility
- Legal Profession
- Care Provision (private)
- Care Provision (public)
- Charity
- Health or Welfare Sector
- Carer
- Other (please specify below)
- other:

## **Ministerial foreword**

I am pleased to introduce the Department's new Adoption Bill which will result in a much needed update to the Island's adoption legislation.

The Bill places the child at the centre of the decision-making process to ensure that the welfare of the child is at the forefront of every decision taken by an adoption agency or a court. The interests of the child are, rightly so, of paramount importance.

The Bill modernises the Island's adoption legislation to bring it up to date with current best practice, as the current Act is 36 years old.

By updating our legislation we are aiming to improve the adoption service for the benefit of the many vulnerable children being placed for adoption both on and off Island.

Our current Act was drafted at a time when more babies and young children were being placed for adoption. There were also fewer children in care where placement for adoption was regarded as the best outcome. The current adoption process was also originally set up to deal with babies where parental consent was forthcoming.

Over the intervening years, the face of adoption has changed considerably. This is as a result, to some degree, of better contraception and differing societal attitudes to single mothers. Most adoptions that take place now are for children who are already in the care of the Department and who are in an older age range, many of whom have experienced varying degrees of trauma during their early years.

The Department has taken into account this societal change in terms of the type of child being placed for adoption when developing the policy for the Bill.

The Adoption and Children Act 2002 of England and Wales has to a large degree been considered due to the Island's close relationship with England and Wales and as a result of the cross-jurisdictional placements that occur in these regions. English and Welsh case law is predominantly also used in Manx courts during adoption proceedings where there is no local precedent.

In this consultation we are seeking your views on various provisions contained in the Adoption Bill. Your views, suggestions and opinions are of utmost importance to us.

I look forward to receiving your views and encourage you to respond to the consultation.

**David Ashford MHK**

**Minister for Health and Social Care**

### **3 Introduction**

- 3.1 The Department identified the need to change the Island's adoption legislation and as a result, the Department has been developing policy in order to modernise the law in relation to adoption on the Island. A steering group and listening group were convened with many of their findings shaping the Department's policy for the Bill.
- 3.2 The Bill updates the Island's law in relation to adoption and brings it in line with current best practice and adoption law in England and Wales. The law of England and Wales has primarily been considered as the adoption service regularly works in partnership with this jurisdiction.
- 3.3 The Adoption Bill's main aims are (amongst others) to:
- a) Place the child's welfare at the centre of all decisions in relation to the adoption of a child;
  - b) Decrease the length of time it takes to adopt a child;
  - c) Place adoption support on a legal basis;
  - d) Align Manx adoption law more closely with the law of England and Wales (save for local adoption placements, most other adoptions occur in relation to children from the UK);
  - e) Make it easier for people who have been adopted and their birth relatives to make contact with each other, should they wish to do so;
  - f) Introduce measures to result in greater stability and permanence for children, so that children can live with their adoptive family at the earliest opportunity.
- 3.4 The Adoption and Children Act 2002<sup>2</sup> (Act of Parliament) ("2002 Act") was considered to be an appropriate starting point when considering new adoption legislation for the Island. A large amount of case law from England and Wales is used in the Manx court process however the court cannot place too much weight on this case law given the differences in Manx legislation. Furthermore, English and Welsh guidance in relation to best practice is regularly used by the Department.
- 3.5 The Bill is made up of 13 parts and 3 Schedules. The structure of the Bill is as follows:

---

<sup>2</sup> <https://www.legislation.gov.uk/ukpga/2002/38/contents>

<b>PART</b>	<b>SUMMARY</b>
<b>1 - Introductory</b>	The short title and commencement of the Bill.
<b>2 - The Adoption Service</b>	The adoption service maintainable by the Department, approved adoption societies adoption support services.
<b>3 - the Considerations</b>	The fundamental considerations for a court and adoption agency when making a decision relating to adoption.
<b>4 - The Adoption Process</b>	The main elements of the adoption process – placement for adoption and adoption orders.
<b>5 – Consequences of Placement</b>	The acquisition of parental responsibility, the making of other orders, any provisions regarding contact, the removal and recovery of a child.
<b>6 – Post-Adoption Contact</b>	Power of the court to make an order for indirect contact to include the scope, effect and application of such an order.
<b>7 - Disclosure of Information</b>	Disclosing information during the adoption process, information classed as protected or restricted, counselling for persons seeking the disclosure of information.
<b>8 – Supplemental and Miscellaneous</b>	Other matters connected to adoption and the adoption process – inspections and reviews, restrictions on arranging adoptions, payments, procedural and evidential matters.
<b>9 –Status of Adopted Children</b>	Legal status, adoptive relationships, the disposition and inheritance of property and titles.
<b>10 –the Registers</b>	The maintenance of the Adopted Children Register, the creation of the Adoption Contact Register.
<b>11 – Adoptions with a foreign element</b>	Restrictions on taking a child into the Island or bringing a child out, Hague Convention adoptions and overseas adoptions.
<b>12 – Modifications and Amendments of the 2001 Act</b>	Step-parent responsibility, duration of residence orders, foster carer adoption, provision of accommodation by the Department.
<b>13 –Final Provisions</b>	Restrictions on advertisements, Tynwald procedures for subordinate legislation, rules of procedure.

<b>Schedule 1</b>	Disclosure of Birth Records by the Chief Registrar
<b>Schedule 2</b>	Minor and Consequential Amendments
<b>Schedule 3</b>	Transitional and Transitory Provisions and Savings

**Q1. Do you agree that the Adoption Bill should be based on Adoption and Children Act 2002 (Act of Parliament - England and Wales)?**

**Yes**

**No**

**If you do not agree, please state why.**



## **4 The Adoption Service**

- 4.1 Part 2 of the Bill sets out the adoption services maintainable by the Department and requires the Department to ensure the continued provision of a service to meet the needs in relation to -
- children who may be adopted, their parents and guardians
  - persons wishing to adopt a child
  - an adopted person, their parents, natural parents and former guardians.
- 4.2 Part 2 of the Bill also enables the regulation of adoption agencies and introduces adoption support services.
- 4.3 Adoption support services are important as the majority of children being placed for adoption are children in care having experienced some trauma or distressing events in their early life. This can mean that the child has difficulties in forming attachments with the people who adopt them and has other effects on their behaviour.
- 4.4 Division 4 of Part 2 places a duty on the Department to carry out an assessment of a person's needs for adoption support services. A request to carry out such an assessment can be made.
- 4.5 If following an assessment, the Department decides that a person does need access to adoption support services, the Department must then decide whether to provide adoption support services to that person.

### **Q2: Do you agree that the Department should assess a person's need for adoption support services?**

**Yes**

**No**

**If you do not agree, please state why.**

## **5 The considerations**

- 5.1 Part 3 of the Bill sets out the considerations that must be applied by an adoption agency or the court when making a decision about the adoption of a child.
- 5.2 The considerations that apply to the exercise of powers under the Bill are set out at clause 16 which states that –
- (1) This section applies whenever a court or adoption agency is coming to a decision relating to the adoption of a child.
  - (2) The paramount consideration of the court or adoption agency must be the child's welfare throughout the whole of their life.
  - (3) The court or adoption agency must at all times bear in mind that, in general, any delay in coming to the decision is likely to prejudice the child's welfare.
  - (4) The court or adoption agency must have regard to the following matters (among others) –
    - (a) the child's ascertainable wishes and feelings regarding the decision (considered in the light of the child's age and understanding);
    - (b) the child's particular needs;
    - (c) the likely effect on the child (throughout the whole of their life) of having ceased to be a member of the original family and become an adopted person;
    - (d) the child's age, sex, background and any of the child's characteristics which the court or agency considers relevant;
    - (e) any harm (within the meaning of the 2001 Act) which the child has suffered or is at risk of suffering;
    - (f) the relationship which the child has with—
      - (i) relatives,
      - (ii) any person who is a prospective adopter with whom the child is placed, and
      - (iii) any other person in relation to whom the court or agency considers the relationship to be relevant;
    - (g) the child's heritage.
  - (5) For the purposes of paragraph (f) of subsection (4), the court and an adoption agency must have regard to –
    - (a) the likelihood of any relationship referred to in that paragraph continuing and the value to the child of its doing so;

- (b) the ability and willingness of any person referred to in that paragraph to provide the child with a secure environment in which the child can develop, and otherwise to meet the child's needs;
  - (c) the wishes and feelings of any person referred to in that paragraph, regarding the child.
- (6) Whilst the child's heritage shall be considered in determining whether it is in the child's best interests to remain on the Island, it shall not be the overriding consideration in making that determination.
- (7) In coming to a decision relating to the adoption of a child, a court or adoption agency must always consider the whole range of powers available to it in the child's case (whether under this Act or the 2001 Act) and the court must not make any order under this Act unless it considers that making the order would be better for the child than not doing so.
- 5.3 Clause 16 puts the child at the very centre of every decision to be made. The paramount consideration of the court or adoption agency must be the child's welfare, throughout the child's life.
- 5.4 Therefore, every time a decision is made by an adoption agency, court or other professional, the question of how the child's welfare will be affected both now and for the rest of their life, will be asked.
- 5.5 This reflects the Isle of Man's international obligations<sup>3</sup> under the United Nations Convention on the Rights of the Child 1989 which includes at Article 21, paramountcy of the child's welfare.
- 5.6 The Bill places even more importance on the child's welfare than before. It is now not simply the first consideration (as in section 12 of the Adoption Act 1984) it is the paramount consideration in line with the Children and Young Person's Act 2001 and the UN Convention on the Rights of the Child.

**Q3: Do you agree that the child's welfare should be the paramount consideration of the court and adoption agencies?**

**Yes**

**No**

**If you do not agree, please state why.**

---

<sup>3</sup> [https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg\\_no=IV-11&chapter=4&clang=en](https://treaties.un.org/pages/ViewDetails.aspx?src=IND&mtdsg_no=IV-11&chapter=4&clang=en) 7.9.1994  
UK indicated that the Convention will apply to the IOM.

## **6 Consenting to adoption**

- 6.1 Part 4 of the Bill sets out the adoption process and the placement of children by an adoption agency. Clauses 19 and 20 deal with the issue of consent.
- 6.2 Clause 19 sets out the placement of children with parental consent. As in the Adoption Act 1984, a child under 6 weeks old cannot be placed for adoption.
- 6.3 Placement for adoption with the parent's consent can be following involvement with the Department (for example, as a result of welfare of the child issues under the Children and Young Persons Act 2001) or because the birth parent has handed that child over to the Department without any previous involvement from the Department.
- 6.4 Clause 20 provides for advance consent to adoption. This means that when a parent consents to a child being placed for adoption, they can identify who they want to adopt their child or they can consent to someone being chosen by an adoption agency. A parent will also be able to state that they do not wish to be informed of any application for an adoption order.
- 6.5 This allows a birth parent to provide their consent to a child being adopted at an earlier stage in the process with the aim to minimise any uncertainty for the child.
- 6.6 Consent must be given in the form as prescribed by regulations. It is anticipated that consent will be witnessed by certain people as set out in the regulations, for example, by a social worker. The person witnessing the consent will need to be satisfied that the parent or guardian fully understands the consequences of giving consent and that they are giving consent unconditionally.

### **Q4: Do you agree with the proposals relating to consent?**

**Yes**

**No**

#### **If you do not agree, please state why.**

- 6.7 As with the Adoption Act 1984, there is the ability in the Adoption Bill for the court to dispense with or disregard whether a parent or guardian has provided consent in certain circumstances however this has been reduced from six grounds to two. Consent will be dispensed with if the court is satisfied that:
- a) The parent or guardian cannot be found or lacks capacity to give consent; or
  - b) The welfare of the child requires the consent to be dispensed with.

### **Q5: Do you agree with the grounds in which to dispense with consent?**

**Yes**

**No**

**If you do not agree, please state why.**

## **7 Placement for adoption**

- 7.1 Part 4 of the Bill also introduces placement orders, a new legal process. The aim of a placement order is to ensure that the decision as to whether placement for adoption is in the best interests of the child is taken earlier in the process. At the moment, only once care proceedings have finished can proceedings for the adoption of a child begin.
- 7.2 Placement orders will ensure that the decision in relation to placement for adoption is taken earlier to provide children with greater stability and certainty.
- 7.3 Clause 21 defines a placement order. It is an order made by the court authorising the Department to place a child for adoption with any prospective adopters who may be chosen by the Department. Only the Department can apply for a placement order (Clause 22).
- 7.4 A placement order can only be made where –
- the child is subject to a care order,
  - the court is satisfied that the conditions in section 31 (2) <sup>4</sup>of the Children and Young Persons Act 2001 have been met or
  - the child has no parent or guardian.
- 7.5 If a parent or guardian has consented to the child being placed for adoption or the court has decided that a parent or guardian's consent can be dispensed with, a placement order can also then be made.
- 7.6 Clause 22 sets out when the Department must apply for a placement order. This is when –
- it is in the child's best interests or the child is being provided with accommodation by the Department,
  - no adoption agency is authorised to place the child for adoption,
  - the child has no parent or guardian and the criteria in section 31 (2) of the Children and Young Person's Act 2001 have been met, and
  - the Department is satisfied that the child ought to be placed for adoption.
- 7.7 If an application has been made for a care order and is currently being dealt with or a care order has already been made and the Department is not authorised to place a child for adoption, the Department must apply for a placement order (clause 22 (2)).

---

<sup>4</sup> [https://legislation.gov.uk/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0020/ChildrenandYoungPersonsAct2001\\_11.pdf](https://legislation.gov.uk/cms/images/LEGISLATION/PRINCIPAL/2001/2001-0020/ChildrenandYoungPersonsAct2001_11.pdf)

- 7.8 This means that the application for a placement order can be made by the Department within the care proceedings. The care proceedings do not have to be concluded before making an application for a placement order.
- 7.9 The Department must also apply for a placement order where a care order is in place or the consent of a parent or guardian under clause 19 has been given to place a child for adoption.
- 7.10 Part 5 sets out what the consequences for placement for adoption are.
- 7.11 When a placement order is made any orders under section 11 of the Children and Young Person's Act 2001 no longer have effect. A prohibited steps order, specific issue order, supervision order and child assessment order can also not be made.
- 7.12 When a placement order is made and a care order is already in place, the care order is suspended for the period when the placement order is in force (clause 39 (1)).

**Q6: Do you agree with the proposals in relation to placement orders?**

**Yes**

**No**

**If you do not agree, please state why.**

## 8 Suitability of adopters

- 8.1 Clause 27 of Part 4 sets out the provisions in relation to the suitability of adopters.
- 8.2 People do not have to adopt a child via the Department, they can arrange with an adoption agency in the UK, or indeed in another country or jurisdiction to adopt a child and bring that child to the Island. Whilst the majority of these types of adoptions are successful, some adoptions break down due to many issues not being given proper consideration. This means further disruption and potential harm to the child.
- 8.3 In recent years more children from the UK have been placed for adoption on the Island by UK adoption agencies. This is illustrated in the table below.

**Table 1: Number of children adopted on and off Island - 2015 to date**

	Number of children
<b>Number of children placed on the IOM by off Island adoption agencies</b>	7 In 5 households
<b>Number of children from the IOM placed for adoption in the IOM</b>	9
<b>Number of IOM children adopted off Island</b>	2

- 8.4 Placement by agencies outside of the Island where there is known to be a high risk of breakdown have been common for example, placements of children over 5 years of age, sibling groups of 2 or 3, children who have had multiple care placements and who have experienced severe trauma prior to being placed for adoption. Adoptive carers appear to have not been sufficiently prepared to understand and deal with the needs of the child. As such, many of these adoptive placements have broken down leaving children with urgent care needs (often with specialist support or residential care) resulting in significant human and financial costs.
- 8.5 As a result, when adopting a child from the British Islands at clause 27 (8) the Bill includes the need to seek approval from a Manx adoption panel. This Manx panel would check that it is in the child's best interests to be adopted here.



- 8.6 For example, if it was proposed that a child with severe health issues should be adopted here, the panel would require evidence of access to any specialist support and how this was to be funded.
- 8.7 The Bill allows regulations to be made so that an adoption panel can approve and review decisions made by UK adoption panels.

**Q7: Do you agree that a Manx adoption panel should review decisions made by UK adoption panels before a child can be placed for adoption on the Island?**

**Yes**

**No**

**If you do not agree, please state why.**

## 9 Post adoption contact

- 9.1 Post-adoption contact is dealt with in Part 6 of the Bill. It is an area which has required particular consideration due to the fact that the Island is small with the likelihood of accidental or even non-accidental contact with birth family members taking place.
- 9.2 The Bill allows the court to make an order relating to contact once an adoption order has been granted for a child. The order can:
- 1) require the person named in the order to have **indirect contact** with the child or
  - 2) **prohibit** the person named in the order from having indirect contact with the child.
- 9.3 Indirect contact is written contact only for example, letters, emails or cards. No face to face contact takes place.
- 9.4 In deciding whether to grant the order the court must consider the child's welfare and any other factors it considers appropriate.
- 9.5 The following people can be **named** in a post-adoption contact order:
- a) any relative;
  - b) former guardian;
  - c) anyone who previously had parental responsibility;
  - d) any person entitled to make a pre-adoption contact application; or
  - e) any person with whom the child has lived for one year.
- 9.6 The following people can **apply** for a post-adoption contact order:
- a) a person who has applied for an adoption order;
  - b) a person in whose favour the adoption was made;
  - c) the child;
  - d) any person with leave of the court.
- 9.7 Contact orders under section 11 of the CYPA 2001 cannot be made for post-adoption contact.

**Q8: Do you agree with the proposals for post-adoption contact?**

**Yes**

**No**

**If you do not agree, please state why.**

## **10 Disclosure of information**

- 10.1 Part 7 of the Bill makes some changes in relation to the disclosure of information and adds further safeguards to bring the Bill in line with current practice.
- 10.2 New provisions have been added in relation to adoption information. The Bill allows access to protected information about adopted persons and others involved in their adoption. Under Part 7 the adoption agency will be the main access point for access to adoption information.
- 10.3 Clauses 55 and 56 allow regulations to be made in relation to –
- the information that can be disclosed
  - when that information can be disclosed to prospective adopters
  - what information an adoption agency must keep in relation to a person's adoption, and
  - the form and manner in which that information must be kept.
- 10.4 There will be some restrictions on the disclosure of protected information where the information is identifying information. Identifying information may only be disclosed by the agency to a person in accordance with Part 7.
- 10.5 Identifying information is information which whether taken on its own or together with other information disclosed by an adoption agency, identifies the person or enables the person to be identified (clause 57 (4)).
- 10.6 Regulations can be made to allow for the circumstances to be prescribed as to when the disclosure of this information to a person who is not an adopted person can occur (clause 57 (6)).
- 10.7 Disclosure of protected information can also be by agreement between the adoption agency and a person. This will enable an agreement to be reached between the adoption agency, birth parents and adoptive parents for the sharing for information, for example (clause 57 (5)).

### **Q9: Do you agree with the proposals in relation to the disclosure of information in Part 7?**

**Yes**

**No**

**If you do not agree, please state why.**

## **11 Independent Review of Determinations**

- 11.1 Clause 67 gives the Department power to make regulations to establish a procedure for the review of qualifying determinations made within the adoption process.
- 11.2 This will enable prospective adopters to apply for a review when a qualifying determination is made for example, their adoption agency, after taking into consideration their panel's recommendation proposes not to approve them as suitable to adopt any child, ceases an assessment before completion, or terminates an existing approval of prospective adopters.
- 11.3 It is intended that the review will also deal with the disclosure of protected information by adoption agencies where the agency has discretion as to whether the information is disclosed.

**Q10: Do you agree with the ability to review certain decisions made within the adoption process?**

**Yes**

**No**

**If you do not agree, please state why.**

## **12 Adoption Contact Register**

- 12.1 Part 10 of the Bill deals with the duties of the Chief Registrar and the Registers – the Adopted Children Register and the Adoption Contact Register both kept at Central Registry.
- 12.2 The Adopted Children Register is already in existence and contains entries in relation to adopted persons.
- 12.3 The Adoption Contact Register is a new register for the Island, designed to enable contact between adopted persons and their birth relatives, where both parties have said that they would like contact.
- 12.4 This will allow an adopted person to understand their background and family history. Both the adopted person and birth relative will need to be on the register so that a connection can be made.
- 12.5 The Register will be held at Central Registry and administered by the Chief Registrar.
- 12.6 There are two parts to the register. An adopted person will add their name to Part 1 of the register. Part 2 will contain details of the relative of the adopted person who has expressed a wish for contact.
- 12.7 If an adopted person and birth relative have placed their names on the register, then a link will have been made. The adopted person will then be contacted and given details of the birth relative who has asked for contact.
- 12.8 The register is not a tracing service and will only operate once both parties have added their names to the register. It will not be open to public inspection or search.

### **Q11: Do you think an Adoption Contact Register is a good idea for the Island?**

**Yes**

**No**

**If you do not think it is a good idea, please state why.**

## **13 Children and Young Person Act 2001 amendments**

13.1 The intention of the Department is to update the Children and Young Persons Act 2001 following the introduction of the Adoption Bill. At Part 12, the Bill does however make some amendments to provisions involving both adoption and child care legislation.

### Step parent to obtain parental responsibility

13.2 Clause 114 enables a step-parent to obtain parental responsibility for a child of their spouse. Parental responsibility means the legal rights and responsibilities that most parents have for their children. This includes providing the child with a home, protecting and maintaining the child, arrangements in relation to the child's education, medical treatment and looking after the child's property.

13.3 Instead of adopting a child of a spouse, the step-parent will have the option of obtaining parental responsibility. This will be acquired by a parental responsibility agreement or court order. Parental responsibility can be jointly held by the birth mother, birth father and step-parent for example.

### **Q12: Do you agree that step-parents should be granted parental responsibility for a spouse's child?**

**Yes**

**No**

**If you do not agree, please state why.**

### Residence orders – extension to age 18

13.4 Clause 116 deals with residence orders in the Children and Young Person's Act 2001. A residence order is an order stating who a child will live with (section 11 Children and Young Person's Act 2001). Residence orders can only continue past the age of 16 in certain circumstances (sections 14 and 15 Children and Young Person's Act 2001). This means that the majority of residence orders cease once a child reaches 16 years old.

13.5 The Bill amends the Children and Young Person's Act 2001 to allow a residence order to extend to the age of 18 with an application to vary or discharge the order only being made with leave of the court.

13.6 The intention of this provision is to provide security in the situation where the person named in the order is not the child's parent but that person is caring for the child on a long term basis.

**Q13: Do you agree that residence orders should extend to the age of 18?**

Yes

No

**If you do not agree, please state why.**

Foster parent adoption

13.7 At clause 118 the Adoption Bill amends section 26 of the Children and Young Person's Act 2001 to provide for the situation where a child is looked after by the Department and the Department are considering that placement for adoption may be in the best interests of the child however there is no consent from a parent or guardian and no placement order has been granted.

13.8 Section 26 will be so that if it is decided that placement with another relative, friend or other suitable person is **not** appropriate then the Department **must** consider placing the child with a prospective adopter who has been approved as a foster carer. This will give the Department a duty to consider placement of children with foster carers who are approved prospective adopters. This allows placement for adoption at the earliest opportunity, even before the decision that adoption is in a child's best interests has been taken and will reduce the likelihood of children being moved to further placements. It will also minimise disruption and enable children to develop early attachments.

13.9 Foster carers will also be permitted to adopt a child with the Department's consent (clause 24 (6)) however this will be on the condition that the child must have had their home with the foster carers for a period of one year before the application is made.

**Q14: Do you agree that a duty should be placed on adoption agencies to consider placement of a child with foster carers who have also been approved as prospective adopters?**

Yes

No

**If you do not agree, please state why.**

**15: Please let us know if you have any comments about any other part of the Bill.**



