

## **Foster Care in England: A Review for the Department for Education by Sir Martin Narey and Mark Owers**

### **Response from The Fostering Network, April 2018**

#### **About The Fostering Network**

The Fostering Network is the UK's leading fostering charity. We have been leading the fostering agenda for more than 40 years, influencing and shaping policy and practice at every level. We are passionate about the difference foster care makes to children and young people, and transforming children's lives is at the heart of everything we do. As a membership organisation we bring together individuals and services involved in providing foster care across the UK. We have approximately 60,000 individual members and nearly 400 organisational members, both local authorities and independent fostering providers, which cover 75 per cent of foster carers in the UK. Our views are informed by our members, as well as through research; in this way we aim to be the voice of foster care.

#### **Introduction**

Following the publication of the *Foster Care in England* report in February 2018 The Fostering Network has given careful consideration to the findings and recommendations of the review. Below we have detailed our overall response to the report and to the specific recommendations of the stocktake, as well as the education committee's fostering inquiry recommendations.

#### **General response to the national fostering stocktake in England**

As you will be aware, the announcement of the fostering stocktake in 2016 was warmly welcomed across the foster care sector and its recommendations were keenly anticipated. However, the overwhelming feeling following publication is one of a huge opportunity wasted.

All those working in the sector know that good foster care works, and foster carers make a huge difference to children's lives every day. But as demonstrated in our State of the Nation 2016 report<sup>1</sup>, the overall system and culture make foster carers' jobs so much more difficult, rather than enabling and supporting them to carry out their vital work. The Fostering Network had hoped that the stocktake report would tackle the systemic and cultural issues that are widely recognised by those who work in this field, such as children experiencing placement moves that are not in their best interests, foster carers not being treated as equal members of the team around the child and long-term fostering and post-18 care not being seen as a permanence option.

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<sup>1</sup> State of the Nation 2016, The Fostering Network <https://www.thefosteringnetwork.org.uk/policy-practice/policies/state-nations-foster-care-2016>

Going forward, we are extremely concerned that any plans built around the stocktake's recommendations will fail to make any demonstrable difference to the lives of children and the families that dedicate themselves to looking after them.

In terms of the stocktake process we are aware the stocktake team received 300 pieces of evidence and met with hundreds of social workers, foster carers and others within the sector over several months, as well as having all the evidence from the education committee's fostering inquiry available to them. We ourselves submitted an official response and accompanying reports, as well as sharing the findings of our State of the Nation's foster care report (based on a survey of over 2,500 foster carers). We also held a specially convened session on staying put at the stocktake team's request, and invited them to meet our members at a number of our conferences. And yet the final report fails to demonstrate how it has drawn on any of the evidence collected. It also appears to give too much weight to personal opinions and bases its recommendations on the views of a very small number of people.

We are extremely disappointed that the voice of the foster carer is absent throughout, while the number of children and young people consulted is very low and their views are not integrated into the main body of the report nor the recommendations. In particular, the authors show very little understanding of the complex nature of fostering and its different roles for different children, and effectively dismiss long-term fostering as a permanence option by suggesting young people should be moved to special guardianship orders or adoption to avoid the problems of staying put. The report is pre-occupied with legal orders rather than taking a child-centred approach. There are also sweeping statements backed by little or no evidence, such as saying that "understandably" foster carers of young children and those with no complex needs are not paid. Understandable to whom, and why? Other unsubstantiated sentences include "Carers overwhelmingly see fostering as a vocation, and see themselves primarily as substitute parents". Phrases such as "many", "often" or "too few" are used with no reference to real data, when the findings of research are not referred to at all.

While we agree with a number of recommendations, they are largely superficial and will only scratch the surface; the report makes almost no recommendations that we believe will actually have any significant impact on transforming foster care. There is nothing radical nor brave within the report, nor anything that brings new knowledge or understanding about the sector. It is a missed opportunity and we fail to see how this is value for taxpayers' money or a good use of the sector's time over the past year.

Finally, it is confusing how two national reports reviewing fostering in the same time period and published within two months of each other have such different findings, recommendations and conclusions. The stocktake team and the education committee received oral and written evidence from a similar group of people in the fostering sector and yet the two reports have such differing conclusions – one seeing fostering as a success story (stocktake report) and the other seeing foster care as invaluable part of the care system but a system which is under pressure and emphasises the importance of valuing young people, foster carers and the foster care system itself (education committee).

### **Purpose of care and permanence**

The Fostering Network is extremely disappointed with the fostering stocktake report's lack of vision and ambition for fostering. One of our key concerns is the philosophy appearing to underpin the report which frames fostering as a 'rescue' form of care and, as such, purely a stepping stone to other forms of permanence such as adoption and SGOs. We believe that foster care can offer permanence and stability to these children in a similar way, and should not be considered the poorer option when permanency is being considered.

It is essential the Government sets out a clear vision for the purpose of the care system before focusing on individual elements of the system such as fostering, residential care and so on. We believe that the care system exists to protect the child from harm, to offer a safe, nurturing home for the child to achieve recovery and healing from past harm and to promote resilience and emotional wellbeing in order for the child to realise their full potential.

While for many children their time in care may be limited, others will live with their foster family for the remainder of their childhood. Regardless, foster carers will provide children with the stability and security of positive family life for however long they live there.

We believe a future vision for the care system, and specifically for foster care, needs to take a child-centred approach and recognise that relationships are the '*golden thread*<sup>[1]</sup>' in children's lives. A vision would need to recognise that fostering is not a single entity, with a different approach and potentially a separate legal framework being required for different types of fostering. This is not the same as saying that we need different types of foster carers who are viewed and treated differently – all foster carers should be skilled and expert, and must be financially and practically supported, given access to training, treated as an equal member of the team around the child and so on – but rather that the way in which children are enabled to stay with a foster carer and truly feel part of that family in the longer term needs a stronger legal status.

One of the key areas we feel the Government needs to explore and understand is why different permanence decisions are made for children with similar backgrounds and needs, especially as the support available to those looking after the children, access to services, contact with birth families and finance becomes less defined between the different permanence options. We want to see a system that is completely centred on meeting children's needs, and not on those of adults. We do not want to see one permanence option prioritised over another, but rather the best decision being made for each individual child. We believe that the proposed permanence leadership board would provide an opportunity to review the existing routes to permanence and ensure that long-term fostering is enabled to become an equal and protected option for children who need to remain within the care system.

## **The Fostering Network's response to the stocktake recommendations**

Below we have responded to each of the stocktake recommendations as well as highlighting our response to the education committee's fostering inquiry recommendations where appropriate.

### **Professionalisation**

The Fostering Network firmly believes that foster carers are at the centre of a multi-disciplinary team of professionals who work on behalf of children and young people in public care. They are required to deliver highly personalised care within a professional framework and need to approach what they do in a professional manner: report writing, assessments, home review, attending placement agreement meetings, involvement with the police, attending court and giving evidence, managing contact, carrying out life story work and so on. All while they continue with parenting and meeting the emotional and physical needs of the child in their care in a way that safeguards the child and themselves. The professionalisation of foster care is about recognising that foster carers have their own area of expertise, skills and tasks in the team around the child.

The stocktake report fails to understand that there needs to be a cultural change to ensure foster carers are given respect and valued as an equal part of the team around the child. The report states

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[1] Care Inquiry

that *'foster carers can't play an equal role alongside dispassionate professionals'* – unsubstantiated sentences such as this reinforce why social workers might – wrongly – choose not to involve foster carers in decisions about the children in their care.

A key element of foster carers being seen as equal members of the team around the child and vital to the recruitment and retention of the workforce is to ensure they have the right terms and conditions. This includes being fully trained and supported, having the authority and status to make day-to-day decisions about the children in their care, being fully reimbursed for all the costs to meet the child's needs and being paid for their time and skills.

The report states throughout that foster carers *'must be treated professionally.'* This is not helpful as it suggests that the person doing the *'treating'* is the professional not the recipient, the foster carer. The education committee's statements in this area are more helpful: *'it must be universally recognised and understood that they (foster carers) are the experts with regards to the life and care of their child, and they must be afforded the same respect and professional courtesies as would be extended to a birth parent or any other care professional involved in the care of looked after children.'*<sup>2</sup>

The stocktake report makes a specific recommendation in this section to amend the statutory guidance (Children Act 1989: Fostering Services, Volume 4 July 2015) to include foster carers as people who must be involved in reviews. While we support this recommendation, and the necessary regulations would need to be amended as well, we do not think this recommendation alone will create the cultural change that is needed for foster carers to be seen as equal members of the team around the child.

## **Delegated authority**

While foster carers look after fostered children on a day-to-day basis, they often have the least authority out of all those in the team supporting the child. The source of the tension about where responsibility and authority lie in foster care is the fact that the corporate parent is the local authority and is removed from those who have day-to-day responsibility for the care of children, the foster carers. The local authority is often discharging its role as corporate parent within a large bureaucratic and regulated structure and one where a culture of blame can create a real sense of anxiety about delegating decisions to carers. The impact of this is ultimately on the child and it can hinder their ability to participate in normal family, school or social activities.

We are pleased to see that both the stocktake report and the education committee report are in agreement with the issues surrounding delegated authority. As the education committee highlighted, delegated authority is *'patchy, too infrequent, too limited and incoherent'* and *carers are often excluded from meetings'*. We agree with the stocktake report that the categorisation of decision types in current guidance is sensible. However, we do not feel that the key issue of the guidance not being effectively and consistently implemented will be addressed by the Department for Education reminding all local authorities that delegation of total authority for all category one decisions should apply automatically to foster carers. Currently there is no recourse if local authorities are not adhering to the delegated authority guidance and therefore we think the Government needs to go further and delegated authority needs to be integrated into Ofsted's regulatory framework.

The stocktake recommendations are quite disconnected but there is clear connection between the points made earlier of foster carers being seen as equal members of the team around the child and being given the authority to make the day-to-day decisions about the children in their care. The stocktake report approached fostering as a single entity and yet the Department for Education

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<sup>2</sup> Education Committee, Fostering report December 2017, paragraph 71

identifies eight different types of fostering. There will obviously need to be a different approach to delegated authority for those delivering different types of fostering i.e. emergency foster care as opposed to long-term fostering and family and friends or kinship care. In addition, the child's legal status determines the types of decisions that can be made as under section 20 birth parents hold full parental responsibility, while under section 31 this is shared between birth parents and the local authority. We also need to be mindful of the ability of children and young people to make their own decisions.

Finally, the children's social worker holds a pivotal role in terms of delegated authority. Where authority is not delegated to a foster carer but remains with the social worker, that social worker has to make and stick to a commitment to deal with any requests quickly, and not cause unnecessary delays that have a negative impact on the child. Moreover, we think it is essential that knowledge of fostering is included in training for social workers to enable them to work more effectively with the primary carers of the vast majority of looked after children. Children's social workers need to fully understand the role of foster carers. Currently the role of foster carers is only mentioned in the permanence skills and knowledge framework for social workers; we would recommend it is reflected in all relevant skills and knowledge frameworks.

### **Physical affection**

We welcome the issues raised in the stocktake report in terms of physical affection. The Fostering Network is clear that physical affection is essential to children and a key part of their development. The issues raised by the report in relation to physical affection have to be seen in an historical context and are a symptom of the view that has evolved in our society of the risks involved in showing physical affection to children and young people. As a result the sector has developed a culture of protecting adults rather than meeting the needs of children and we need to find a way of looking at how we achieve both.

While earlier versions of *Safer Caring* reflected the prevailing risk averse culture, the 2013 revision challenged this thinking and focused on taking a 'risk-sensible' approach. The book introduces a new way of thinking about principles for safeguarding children and young people in foster care at the same time as offering guidance to protect foster carers and their families from complaints and allegations.

We will be renewing *Safer Caring* in 2018/19; we will be widely publicising the revised version to the fostering sector and will share with the relevant government bodies and at a national and local level.

### **Rationalising professional supervision of placements**

The stocktake recommends that local authorities should be given the discretion to allow one social worker to take on the role of the fostering social worker and children's social worker in long-term placements. The report makes no reference to the recent and significant regulatory change in 2015 which permits a child in long-term foster care to be visited by their social worker only twice a year. In making this recommendation the report relies heavily on the evaluation of the Match Foster Care pilot which was a very small sample and was not conclusive in respect of the benefits of using a single social worker. In addition the pilot evaluation highlights the 2015 regulatory changes as 'a valuable new framework'.

We believe that children's social workers play a key role in not seeing the child in isolation of their placement but in the wider context of their history and identity and ensuring they are able to maintain contact with their birth family, especially if the child has been separated from their siblings. There may be scope for supervising social workers to play a greater role in the day-to-day decisions in long-term placements but we would not want to see the children's social worker role removed.

## **Independent reviewing officers (IROs)**

The stocktake report recommends that local authorities should be allowed to dispense with the IRO role in order to re-invest savings into frontline services. Along with many individuals and organisations from across the sector The Fostering Network strongly disagrees with this recommendation as we believe it could have a profound impact on the rights and welfare of children. This recommendation is underpinned by the opinions of a few people rather than any robust evidence and is silent on who is intended to take on the role of reviewing and monitoring currently undertaken by IROs. Somebody would need to perform the role of the IRO therefore the savings suggested in the report are false.

We believe the stocktake team has gone beyond their remit in making this recommendation and has not called for evidence about the IRO role. In addition the recommendations concerning removing scrutiny from the system (IRO role, fostering panel and single social worker) are presented separately and it is vital that these recommendations are considered alongside each other in order to uphold the rights and welfare of children in care.

As stated in our response to the stocktake's call for evidence we feel IROs play a crucial role in ensuring children's views are recognised, supported and sustained. We would like to see IROs becoming independent of local authorities and having more authority, in order to be fully independent and effective, and to be able to ensure decisions are in the best interests of the child.

## **Fostering panels**

Along with rationalisation of social work support and removal of the IRO role, the removal of fostering panels was also subject to scrutiny in the passage of the Children and Social Work Act 2017, and all three recommendations were opposed on the basis of a dilution of children's rights and protections. It is unclear the evidence that is underpinning this recommendation.

We do feel that fostering panels have developed into a bureaucracy and while we would want fostering panels to remain we do think there is scope to review the role, composition and remit of the panels.

## **Allegations**

The stocktake report was quite dismissive about the suggestion from the fostering community that allegations were a key issue for foster carers and felt the only action that was needed was for local authorities to follow existing guidance and for carers to be reassured that they would be supported through the process. The education committee recommended the Government bring forward legislative proposals to extend the scope of the Public Interest Disclosure Act to cover foster carers so that they are protected during proceedings or when raising concerns of their own. While we agree with the education committee that foster carers should be within scope of the Public Interest Disclosure Act for whistleblowing purposes we do not believe this will help in terms of allegations.

We know that allegations are a key issue for foster carers; in our recent State of the Nation survey of 2,500 foster carers, 33% of respondents had experienced an allegation yet only 2% of these allegations were substantiated. Most foster carers accept that allegations are an occupational risk – and, of course, it is vitally important that serious allegations are investigated and that children are listened to – but the uncertainty and lack of support that many experience is something that can be avoided.

There is no other profession involving children where the threshold for an allegation to be investigated is so low or where the support is so minimal. However, once an allegation is made, carers are not treated as other professionals; they are too often left not knowing timescales, not being given access

to independent support and having financial support removed. In contrast, their social work colleagues would be afforded HR, legal and emotional support should an allegation be made against them. We urgently need these issues to be addressed and a transparent framework should be in place for dealing with allegations, and ensuring adherence to timescales. Foster carers should be given the same HR, emotional, financial and legal support that would be afforded their colleagues in other parts of the children's workforce. This would be an important step towards recognising foster carers as equal members of the team around the child and reducing the traumatising impact of an allegation on all involved. The Fostering Network is about to embark on a national initiative to develop a better understanding of allegations and how support can be improved and we would welcome DfE's input and support to this.

## **Allowances and fees**

While all foster carers must receive an allowance to cover the cost of caring for a fostered child, there is no requirement for fee payments – made on top of allowances to recognise a foster carer's time, skills and experience – to be made. The Fostering Network believes that all foster carers should be paid a fee for the vital job that they do as part of the children's workforce. We also want to see a review of the level of the national minimum allowance in England to ensure it covers costs, not least because increases have been falling behind the rate of inflation.

We therefore welcome the education committee's recommendation for the Government to consult on national minimum allowance levels to investigate the level of funding required to match rises in living costs, and allow carers to meet the needs of the children.

The committee's inquiry also suggested that current taxation rules for foster carers should be reviewed and updated. However, our annual survey of foster care allowances has yet to identify any foster carer who is at risk of receiving an allowance in excess of the current threshold, so we do not see this measure as necessary.

The stocktake reported that almost none of the foster carers they met prioritised pay as an issue, and that current fees are adequate. The report also stated that it is 'understandable' that new carers, those looking after 0-4 year old children and those without complex needs, and kinship foster carers, do not receive a fee. These statements are based on anecdotal evidence, and are at complete odds with our own data from a 2017 survey of almost 2,000 foster carer respondents, which we conducted specifically in order to inform the stocktake team:

- 98 per cent believe that foster carers should be paid.
- Just over half (58 per cent) of foster carers receive a fee which is separate from the allowance.
- 15 per cent of foster carers do not receive any fees at all, and a quarter of foster carers receive a lump sum payment which includes the allowance and a fee.
- Based on a notional 40-hour week, a quarter of foster carers received the equivalent of less than £1.70 an hour.
- Only one in 10 foster carers receives the equivalent of the national living wage for a 40-hour week.

Nevertheless, we do agree with the stocktake report that foster carer fees are best implemented using a tiered system.

## **Employment**

Foster carers' employment status is currently a confused picture. This is a complex area and one that merits more focus and exploration.

Fundamentally, however, foster carers are a key part of the team working with fostered children. They must be treated as an equal member of the team around the child, and given all the information and authority they need to be able to look after these children to the best of their ability. For example, any other form of work wherein the workers are required to deliver highly personalised care within a professional framework, to receive training, to develop their skills and reflect on their practice, to meet minimum standards of work, and to be subject to an annual review, would surely be classed as a profession.

Regardless of their employment status our starting point is that all foster carers must have:

- Status and authority
- Equal respect as a key member in the team around the child
- Payment for time, skills and expertise, as well as expenses covered via allowances
- Support and training.

The issue of employment status for foster carers is currently being tested in the courts.

The fostering inquiry felt it is unsatisfactory that foster carers are subject to the responsibilities of self-employed status without the benefits. In light of the recommendations of the Work and Pensions and Business, Energy and Industrial Strategy Committees, they recommended the Government must state whether self-employment is the appropriate employment status for foster carers. These are broadly in line with the views of The Fostering Network.

The stocktake report, while it acknowledged that employment rights could bring some benefits to foster carers (for example sickness pay and protection against dismissal), stated that such rights would also bring significant obligations in terms of more oversight on the carer and impinging drastically on the independence of foster carers turning their homes into places of work – and thereby losing favourable tax and benefits arrangements. So the stocktake report was clear that were employment status to be obtained it would radically and negatively affect the heart of fostering and not be in the interests of children in care, and therefore the report encouraged the Government and local authorities to resist such change. These claims were not backed up with any evidence in support. Moreover, these changes may be implemented via the courts, and hence the sector would be required to accept them.

## **Recruitment**

No child in care is currently without a home, but they could be in the wrong placement for them – residential care rather than foster care for example, or with a foster family that is providing a safe and secure home but is not the ideal match to meet all of the child's needs. Some children also get placed a long way from family, friends and school. The Fostering Network estimates that, in England, a further 5,900 foster families are needed in the next 12 months in order to ensure all fostered children can live with the right family for them, with the skills, knowledge and experience to meet all of their needs.

We support the benefits of introducing a national register which could contain details of all approved foster carers in England. We believe a central list could serve a number of purposes:



- improving safeguarding of children and young people, as currently there is no way of knowing that an applicant previously fostered elsewhere if the carer chooses to withhold the information;
- providing foster carers with a licence to practice;
- increasing the portability of the workforce by enabling foster carers to transfer providers more easily without having to repeat the full assessment process, which as a result could drive up standards in training and support for foster carers;
- supporting the creation of a standardised pre- and post-approval training framework linked to the register; and
- improving the formal status of foster carers to allow the role to be more recognised and valued within the sector and by the general public.

However, we are unsure how a national register could be used in a local way for vacancy management purposes.

In terms of a national recruitment campaign, every year The Fostering Network supports fostering services to recruit more foster carers during our long-established Foster Care Fortnight<sup>TM</sup>, the UK's biggest foster care awareness raising campaign. Established for more than 20 years, the campaign showcases the commitment, passion and dedication of foster carers and encourages new people to consider fostering. We support fostering services to highlight the need for more foster carers especially to care for older children, sibling groups and disabled children.

The reason we run Foster Care Fortnight in this way is because in our experience a national awareness campaign is far more effective than a national recruitment campaign; targeted recruitment has to happen at a local level to ensure that the right people are found to meet local needs. Of course, if funding was available to invest in a nationwide advertising campaign tackling the image of foster care in the same that was done with teachers, that could be really beneficial, but it would need to be accompanied by local services targeting who they want to recruit – alongside a robust commissioning framework – and having systems in place to support recruitment and assessment.

We do not agree with the recommendation to amend the joint transfer protocol to allow independent providers to be compensated by local authorities if the carer transfers to the local authority in a long-term placement. This turns the foster carer into a passive being who 'belongs' to the service, and takes away their choice of which service they are approved and supported by, thereby eroding their status. It should always be the foster carer's decision if they want to move: they are not commodities. Additionally, by condoning a local authority bringing foster carers inhouse the stocktake report ignores the importance of having consistency of support for the carer, who would also have to change supervising social worker – the person who is probably best placed to support long-term placements.

The fostering inquiry recommended that the Government's approach to capacity issues must also look to supporting children and families before they reach crisis point and need to enter the care system. We agree with a greater use of support care, much of which was cut with the arrival of austerity policies. Local authorities should be investing in these kind of schemes as they have a very high success rate in terms of keeping families together and save money in the long term.

## **Commissioning**

To achieve the best outcomes for looked after children, commissioning in foster care should always be driven by the needs of the local children in care population following a comprehensive needs analysis of this population. It is a false economy to focus on cost rather than outcomes as poor outcomes for looked after children only lead to higher public costs later on in their lives.

The commissioning framework has not changed in 30 years and is long overdue a fundamental review. Commissioners need to exercise their corporate parenting role to a greater extent and focus on the needs of their children, with a view to achieving a form of permanence best suited to their individual requirements. For example regional adoption agencies could become regional permanence agencies that take a holistic view of the best outcomes for each child. Such permanence agencies would therefore also have long-term fostering and staying put embedded within commissioning contracts as part of every local authority's sufficiency duties. However, the stocktake report failed to address how to commission for different types of foster care, and missed an opportunity to recommend creating a framework that would build good relationships between foster carers and children's social workers.

It is fair to say that there is some local duplication currently. This could be addressed through national commissioning and contract frameworks. There are also many unused approved foster carers with independent providers and the stocktake report failed to mention this as an issue – yet it is a waste of both money and potential foster carers' time if they are being recruited and not consequently used.

The fostering inquiry recommended an outcomes-based approach to commissioning, but we are concerned that the stocktake was silent on this approach, instead focusing on reducing costs. While cost is of course important and we would agree that if savings can be made they should be explored, this should never be the overriding factor. In order to save money the stocktake suggested a move away from secrecy around costs, regional consortia, and greater partnership working with independent providers. We believe that regional consortia should be explored with reference given to the effectiveness of regional adoption agencies, and any impact these have had on levels of adoptions. We agree with the recommendations of the education inquiry that the Government must provide local authorities with the resources they need to ensure financial concerns do not take precedence over the needs of the child.

## **Placement stability**

For some time The Fostering Network has been concerned about the slow progress in getting children and young people into the right placement first time. Since 2009 the number of children in care who have had three or more placements in the same year has remained fairly static.

In order to meet the needs of their local looked after children population it is essential that individual social care assessments of children and young people are aggregated in each local area in order to strategically plan the services required for their looked after children population. The needs analysis should drive foster carer recruitment. No fostering services should be recruiting foster carers for whom there is no demand. Instead local authorities and IFPs should work together to make best use of the existing foster carer workforce and ensure they are recruiting the right foster families to meet the needs of the children in and coming into care i.e. target and match skills of carers with the needs of children. Fostering services should encourage any potential applicants whose skills they don't currently need to contact an alternative fostering service which does need these skills.

As the education committee stated it is important that placement breakdown is prevented by fostering services resolving issues before they escalate and supporting the foster care placement to build a family environment.

### **Information sharing**

Both reports acknowledged how essential accurate information sharing is to placement matching and the stability of the placement. We agree with the education committee's recommendations around information sharing that the Government must ensure better application of regulations and guidance. It is essential that foster carers are given all the available information they need to help children reach their potential and keep them and those around them safe.

### **Birth family contact/ sibling separation**

The stocktake recommends that local authorities should not presume that brothers and sisters in care should live together. This recommendation goes against established practice and law. The Children's Act requirement to enable siblings to live together has a caveat – it must be exercised *so far as is reasonably practicable in all the circumstances of each individual child's case*. As stated in the letter to the Children's Minister from the Together for Children campaign the law allows flexibility so the individual child's best interests prevails. We do not understand why the authors of the stocktake report deny the importance of placing siblings together when this is in their best interests and we would urge the Government to defend current law, policy and practice.

In respect of the law on contact the stocktake report highlights that in 2013 the Government was *'persuaded that sometimes decisions on contact – however well intended – were not always in the best interests of the child. They decided that the long-established assumption that contact between a child or infant in care, and their birth family, was not in the child's best interests, and should be removed from legislation. This followed significant concern about the distress caused to infants and young children by contact, particularly contact which took place frequently, sometimes daily.'* The authors statement that the presumption in favour of contact was removed by the Children and Families Act 2014 is inaccurate. The changes removed any continuing duty to promote contact where a court had refused contact; it did not remove the presumption of contact.

### **Permanence – long-term fostering and staying put**

The recommendations of the two reports are contrasting with regard to long-term fostering and staying put. The education committee recommends improvements to funding and promotion of staying put so that all young people who wish to remain with their carers are enabled to do so. On the other hand the stocktake report does not make any specific recommendations for staying put other than the belief that there is scope for a substantial proportion of children in fostering placements to leave the care system but continue to live with their carers under special guardianship orders or through being adopted.

We are confused that the stocktake authors begin their report with stating that fostering is a success story but then undermine this statement with the recommendation to convert fostering placements to SGOs or adoption in order to achieve permanence. The stocktake report is preoccupied with legal orders rather than looking at a child-centred approach to permanence. As the Care Review<sup>3</sup> found, *"Permanence" for children means "security, stability, love and a strong sense of identity and*

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<sup>3</sup> Care Review (2013) *Making not Breaking: Building relationships for our most vulnerable children* [Online] Available from: [http://www.frg.org.uk/images/Policy\\_Papers/care-inquiry-full-report-april-2013.pdf](http://www.frg.org.uk/images/Policy_Papers/care-inquiry-full-report-april-2013.pdf)

*belonging". This is not connected to legal status, and one route to permanence is not necessarily better than any other: each option is the right one for some children and young people in care.'*

Fostering is not a single entity and therefore it is worth considering whether it can be best served by a single legal framework or whether a different approach for different types of fostering is required. There has been a legal definition of long-term foster care in England since 2015, which is welcome, but we now need to consider how long-term foster care sits in the broader permanence framework. For this reason we welcome the recommendation of a permanence leadership board to break down the silo mentality and start to put in place a child centred approach to permanence.

Other permanence options, such as SGOs and adoption, are legal orders and can only be granted, or ended, by the courts. All decisions on long-term foster care sit within local authority children's services departments. The implications of this can be placement drift rather than early decisions being made on which results in children staying with foster carers for years by accident rather than design. Also, feedback from our members through our State of the Nation survey shows placements can end even when they feel this is not in the best interests of the child, but rather for financial reasons, or lack of support, or a difficult relationship between the carer and social worker, and other reasons that would likely not be accepted if a court were involved. The State of the Nation report also found placements can end with little independent review and scrutiny of the decisions. This lack of legal permanence leads to children in otherwise stable long-term relationships feeling less secure and more vulnerable to disruption, in a way that those living in adoptive families or under SGOs do not.

When making a decision about permanency for a child decision makers need to be clear why a child is being placed in long-term foster care as opposed to SGO or adoption. The key difference between long-term foster care and other permanency options is the child remains in the care system which offers a protective and nurturing environment, remains in a family setting, is able to remain in contact with their birth family and is afforded rights to therapeutic services, access to social work support for the child and foster carer and care leaver entitlements.

The Fostering Network wants to see long-term foster care being given equal status and consideration in permanence options, and for long-term fostering relationships to be respected, valued and actually seen as permanent as adoptive and special guardianship placements are.

## **Staying put**

The reviewers acknowledge the fact that fostering placements will continue to be needed for the vast majority of children currently in care we would therefore question the absence of any meaningful recommendation on staying put, particularly when the review specifically expresses concern around care leavers' transitions into independence.

The review's 'Annex A: Voice of Children in Foster Care', states that many of the young people consulted by the Office of the Children's Commissioner raised concerns about the funding of their staying put arrangement. Our own consultation with foster carers, fostering services and children and young people shows clear dissatisfaction with the current funding arrangements. We would urge the Government to act on the education committee's recommendation of improving the funding and promotion for staying put to allow all those young people who want to stay to be able to do so.

Kate Lawson, Policy Manager

Kate.lawson@fostering.net