Introduction

This is a joint submission of written evidence to the Scottish Parliament Education Committee by five national lesbian, gay, bisexual and transgender (LGBT) organisations.

- **LGBT Youth Scotland** is an organisation working towards a Scotland in which every LGBT young person is included in society, can grow up happy and healthy, enjoy a safe and supportive upbringing, and is able to reach their full potential. LGBT Youth Scotland provides direct youth services, undertakes research and policy work, and delivers training to young people and professionals.

- **The Equality Network** is a network of lesbian, gay, bisexual and transgender (LGBT) organisations and individuals in Scotland working for LGBT equality.

- **Stonewall Scotland** campaigns for equality and justice for gay, lesbian, bisexual and transgender people living in Scotland. Stonewall Scotland works with businesses, the public sector, the Scottish Executive, Scottish Parliament and a range of partners to improve the 'lived experience' of LGBT people in Scotland.

- **Gay Dads Scotland** is a social and support group for gay fathers across Scotland. Members come from a wide range of social, ethnic and religious backgrounds as well as various age groups.

- **Lesbian Mothers Scotland** is a charity established to offer help and support to lesbian parents and their children and to lesbians expecting or thinking about becoming parents. It also works for the recognition of lesbian families and supports local lesbian mother's groups in Scotland.

The respondents have been involved in the process that led to this Executive Bill in various ways and we have consulted with our partners who work with children and young people, parents, and in the field of adoption and fostering. We welcome the Adoption and Children (Scotland) Bill as a progressive and responsive piece of legislation that has the potential to make a real difference for Scotland’s most vulnerable children and young people.

The Changing Nature of Adoption

Since the Adoption (Scotland) Act 1978 service users and their needs have changed but to date the legal framework that governs the service has not\(^1\). Similarly, social attitudes and realities have changed over time and the traditional idea of family is no longer the sole and exclusively accepted form of family relationship. The systems for looked after and accommodated children and young people are now charged to deliver for children and young people of a different age group, with different experiences, often from dysfunctional families and a history in local authority care. In the majority of cases children who are placed for adoption are between five and sixteen years old, the average age of adopted children being just under seven years of age; the share of new-born children fell from 26% in 1983 to 5% in 2003\(^2\). Some looked after or accommodated children and young people

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come from difficult family backgrounds and may have been local authority care arrangements for a long time. In many of these cases, the child at the centre of the case will be placed with foster parents or in residential care prior to the consideration of more permanent arrangement, such as freeing the child for adoption.

The Adoption and Children (Scotland) Bill meets the demands of the changing nature of the adoption system in that it offers the permanence order as a more flexible care arrangement. In the absence of clear-cut distinctions in a child’s care requirements, the order reduces legal ambiguities as to parental rights and responsibilities in relation to the child. This is particularly important for older children who are not able to stay with their birth parents but may wish to stay in contact with them or their siblings. The proposed legislation removes the bar on taking out a contact order on the part of birth parents and relatives, and thus allows for the flexibility that children and young people in the adoption system may require.

The Adoption Policy Review Group’s judgment to retain adoption as a primary tool for the provision of permanent care arrangements for children and young people alongside the permanence order was informed by research and consultation. The children and young people consulted during the Group’s phase II unequivocally put forward a sense of belonging, love and support, and a notion of empowerment as the most important advantages of adoption over other more temporary care arrangements such as foster care and residential care.

Permanence and Life Chances

The Review Group stressed that the key task on which an adoption system has to deliver is to enable children to achieve a sense of permanence. ‘Stability, predictability, and the opportunity to form secure attachments’ were rated essential for children ‘to develop into healthy adults’. It is strongly suggested that in a range of indicators adopted children and young people fare better than children and young people who spend a long time in foster care or residential care; these indicators include self-esteem, mental health, intellectual development and school achievement.

In stark contrast to these positive effects of permanence, boys who are failed to be provided with a stable surrogate family when taken away from their birth families are highly overrepresented among the prison population; 45% of young men held in custody in young offender institutions had been in residential care. Girls with a history in residential care are much more likely to become pregnant before leaving care than girls who have never been in local authority care. We are confident that the proposals of the Adoption and Children (Scotland) Bill have great potential to provide permanency to more children in local

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3 Adoption Policy Review Group, p. 3.
5 Section 100, Adoption and Children (Scotland) Bill.
7 Ibid, p. 8.
8 Department of Health, p. 7.
10 Department of Health, p. 7.
authority care, and thus ultimately improve Scotland’s most vulnerable children’s life chances.

According to Scottish Executive figures, the number of applications for adoption orders in Scotland in 2003 was just over one third of the number of applications in 1983\textsuperscript{11}. In 2005, over 12'000 children were looked after by local authorities for various statutory reasons\textsuperscript{12}. Just over half of looked after children lived at home with their parents, friends, or relatives, while 4'414 children (36\%) lived in less than permanent care arrangements, such as foster care and residential care\textsuperscript{13}. Apart from introducing more flexibility in the provision of permanence, the Adoption and Children (Scotland) Bill includes proposals that are likely to increase the number of potential adopters by removing barriers that made adoption as an option appear rather unattractive.

A Progressive Adoption System for Vulnerable Children

The opening up of the adoption system to a more diverse range of families, including same-sex and unmarried mixed-sex couples who will be able to adopt jointly, is an element of the Bill that we strongly support. It not only recognises the fact that families come in different shapes and sizes but also that a range of different family relationships can be capable of and successful in providing a home to children and young people that improves their life chances. We agree on this aspect with some of the leading organisations in the fields of adoption and care for children and young people. Credible and methodologically sound research that we and our partners in the field build on strongly endorses our strong belief that a diverse range of families is capable of giving children and young people the loving, supportive and secure home they need to develop to their full potential\textsuperscript{14}.

The Bill provides for the courts to take important aspects of the child’s background as well as the child’s own wishes and feelings into consideration\textsuperscript{15}. This includes the child’s own cultural identity and religious beliefs as well as cultural and linguistic continuity. The child’s birth parents and other relatives must also be consulted under the Bill’s provisions and their views taken in to account. Section 9 (3) imposes a duty on courts and adoption agencies to ‘safeguard and promote the welfare of the child throughout the child’s life as the paramount consideration’, in agreement with the Convention on the Rights of the Child. We strongly agree with this requirement of the Bill and would like to see ensured that this and section 9 (4) will be interpreted to include a wider range of aspects of a child’s or young person’s identity, including their developing sexual orientation and gender identity.

We cannot, however, see how any exemptions for certain organisations and agencies involved in the adoption process and adoption support, which are based on ideological or doctrinal motives, could in any way promote the best interest of the child or young person as the one paramount concern of any system designed to deliver for the most vulnerable children and young people.

\textsuperscript{11} Scottish Executive National Statistics, \textit{Adoption Applications 2003}, (16 March 2004).
\textsuperscript{12} Scottish Executive National Statistics, \textit{Children Looked After} (part of combined children’s social work statistics), (28 October 2005).
\textsuperscript{13} Ibid.
\textsuperscript{14} For an impression of this see \textit{inter alia} Gerald P Mallon & Bridget Betts, Recruiting, \textit{Assessing and Supporting Lesbian and Gay Carers and Adopters}, British Association of Adoption & Fostering (BAAF), London 2005, ch. 4.
\textsuperscript{15} Sections 9, 10 Adoption and Children (Scotland) Bill.
Conclusions

The proposed legislation equips adoption service providers with a more flexible set of tools to match the needs of those who use the adoption system today. It also has a great potential to make adoption and other forms of permanency more attractive to a larger range of suitable adopters. The obligation placed on all local authorities to provide adoption support services rectifies the unsatisfactory situation in which adopters used to find themselves subsequent to their obtaining an adoption order.

LGBT Youth Scotland, Equality Network, Stonewall Scotland, Gay Dads Scotland and Lesbian Mothers Scotland endorse the positive steps that the Scottish Executive has taken to improve the situation of Scotland’s most vulnerable children and young people. The provisions of the Bill have great potential to provide more children with a loving and secure home, which is the prerequisite for a happy and healthy upbringing and greater achievement and fulfilment in the future.

The five national LGBT organisations strongly support the Adoption and Children (Scotland) Bill as a whole as introduced. We welcome that the Bill finally gives recognition to the diversity of family relationships that are equally capable of providing a supportive surrogate home for children and young people who cannot for whatever reason stay with their birth families. This acknowledgement is long overdue and will be warmly welcomed by thousands of families with lesbian and gay parents and their children in Scotland who have been subjected to unfair pressures and discriminatory treatment for too long.

Adoption practice under the 1978 Act has left many adoptive families with lesbian or gay parents to deal with legal ambiguities, with only one parent legally having a full parental relationship with the adopted child despite the common practice to assess both partners during the process leading up to an adoption order. We are delighted that this unfair and systematic disadvantage that is detrimental to a child or young person’s development is now set to be removed and the system as a whole made fit for purpose in today’s Scotland.

We would very much like to see the fostering regulations overhauled in a manner that puts the system in a position to cater for the needs of Scotland's children and young people of today and removes discriminatory policies and practices affecting lesbian and gay carers.