

# Children in care, Adoption and Permanency

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# A contested topic

- What would this service look like if we were getting it right?
- Context of conversation re adoption and the care system : what is shaping it?
  - What evidence are we are looking for and what evidence is available. How robust is evidence?
  - Data re children in care: there is limited evidence to show that birth parents will choose to consent to adoption if law ( re eligibility ) changes.
  - How can we examine the issue without taking polar positions?
  - Where has the figure quoted in the media (Nov 27<sup>th</sup> 2014) that up to 2000 children could benefit from adoption changes?
    - To what extent is there a need to look at the % of children in care for more than 3-5 years and 5 yrs plus vis a vis age, if they are part of sibling group, their care status and reason for care, nature of relationships with families, extent to which birth parents may consent and last but not least
    - 'what is the child's view?
    - Any decision will impact not only on the child but future generations to come.
  - This paper will consider, values, permanence, some comparative data (USA and UK) and pose a no of questions that will contribute to the debate.

# Our Values and Reflexivity

- Kelly remarks:

Everyone has an emotional investment in their experience of family life. No-one can pretend to look at issues of child care with anything approaching a scientific objectivity (2000, p 14).

- **What is yours and how does this impact on what you think should happen children and families?**
- **How do we move from the simple to the complex?**

# Situating Child Welfare Provision Across a Range of Countries incl Ire.

## A continuum

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USA.....UK

Min State Role / more  
Selective & Individual Focus  
> Privilege of Private domain  
Laissez – Faire / Bureaucratic?

Ireland

Closer to Boston  
than Berlin?  
  
Paternalistic?

Nordic Countries

More Universal services  
Greater Focus on Common  
Good  
  
Public domain  
  
More Rights based ?

# Continuum of Placement options

Permanency

Greater Termination

of Birth Parents rights

Family Preservation

Reunification & LTFC



# Questions

- If return home is not feasible, what sort of long term care is preferable?
- How are the long term alternative care options constructed?
- What is the child's interest and how is this constructed? What about the child's indiv situation?
- What is the ideology behind relationships in foster care : ownership and forever : shared and sustainable /changing ?
- If foster care seen as a poor alternative, what is the evidence and what is assumption /myth?
- Who are the key opinion formers : BAAF, CWLA, Assoc of SW and is their value position explicit?

# UK : Features of the system

- LTFC (permanent): seen as an option but to what extent was it premised on the belief that contact could be excluded?
- Conflict between 1989 Children Act that prioritised contact and Adoption and Children Act 2002 which saw permanency through adoption as preferred option.
- Permanence not defined in law :
- While Guardianship introduced, it creates greater vagueness re long term FC



## **Hierarchy of Permanency Options Under ASFA**

**Return to the Parent**

**Adoption**

**Legal Guardianship**

**Permanent Placement with a Fit and Willing Relative**

**Another Planned Permanent Living Arrangement**

*(must document compelling reason)*

Source Renne & Rideout 2005.



# Some practices **permanency** has brought forth....

- Legislative drivers central in the system.
  - Eg permanency hearings triggered in the system
- Performance measures
  - Explicit criteria against which agencies are measured re throughput of children in care and prospective adopters
- Concurrent planning : developed to impede drift but it has led to increased polarisations including processes
- Outcomes for children : more adoption where legislatively it has been possible / outcomes?

# CONCURRENT PLANNING

Reasonable Efforts to finalize an alternate permanency plan *may* be made concurrently with reasonable efforts to reunify the family :  
Impact?



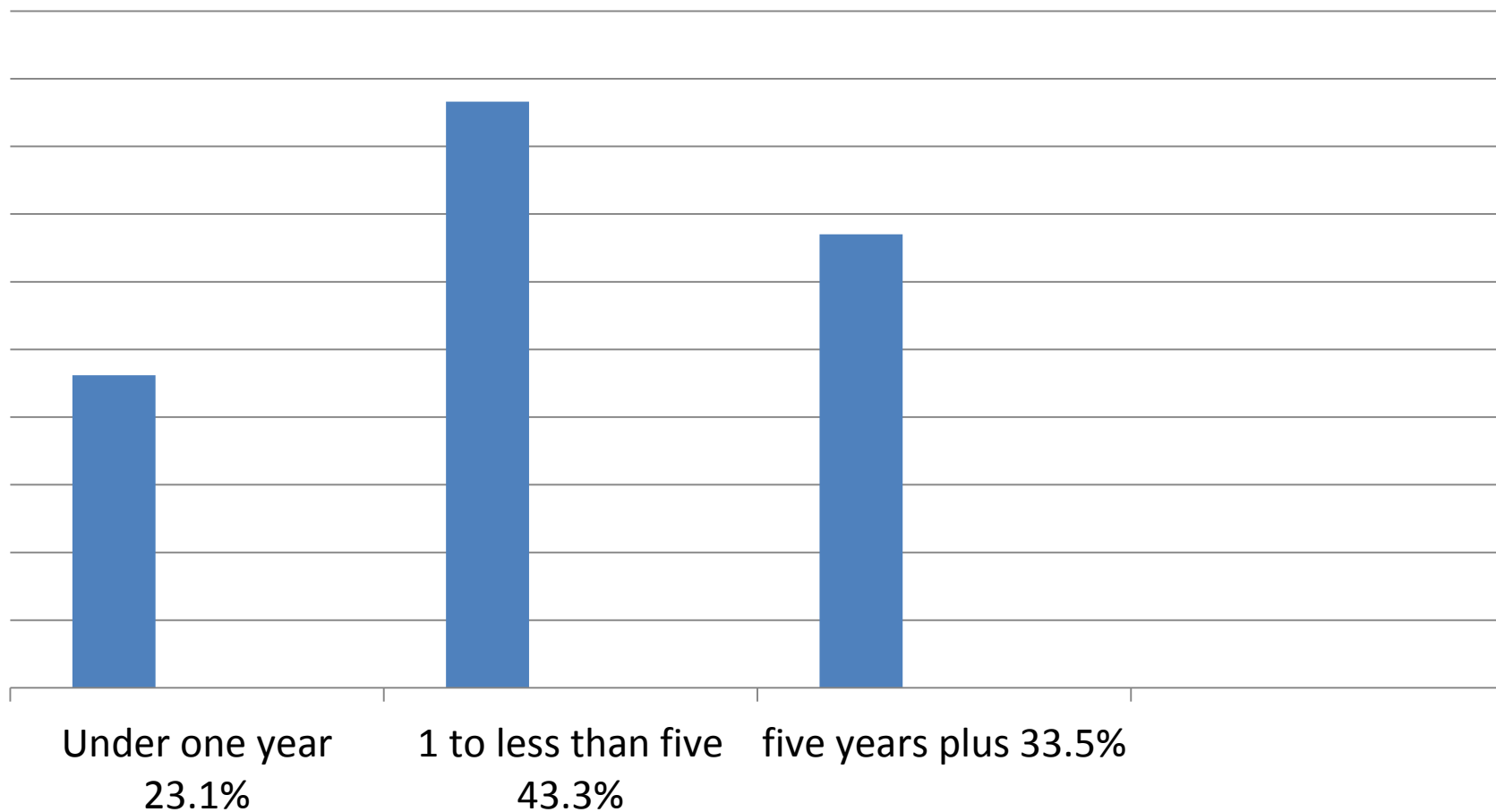
Source Renne & Rideout 2005

# Permanence : Un-for-seen consequences?

- How to have ‘ permanence ‘ ‘safety’ & ‘connection’?
- How to create permanence for children : Widen legal lens?
  - Would guardianship provide safeguards?
- Implications of removing parental rights and having legal orphans?
  - Moral implications where known resource shortfalls?
  - Implication for children’s Identity
- What are implications for permanence re kinship placements?
- Minimizing state involvement and protection of family privacy.
  - Who benefits from these dominant ideas? Whose rights are prioritised?

# % of children in care by length of time

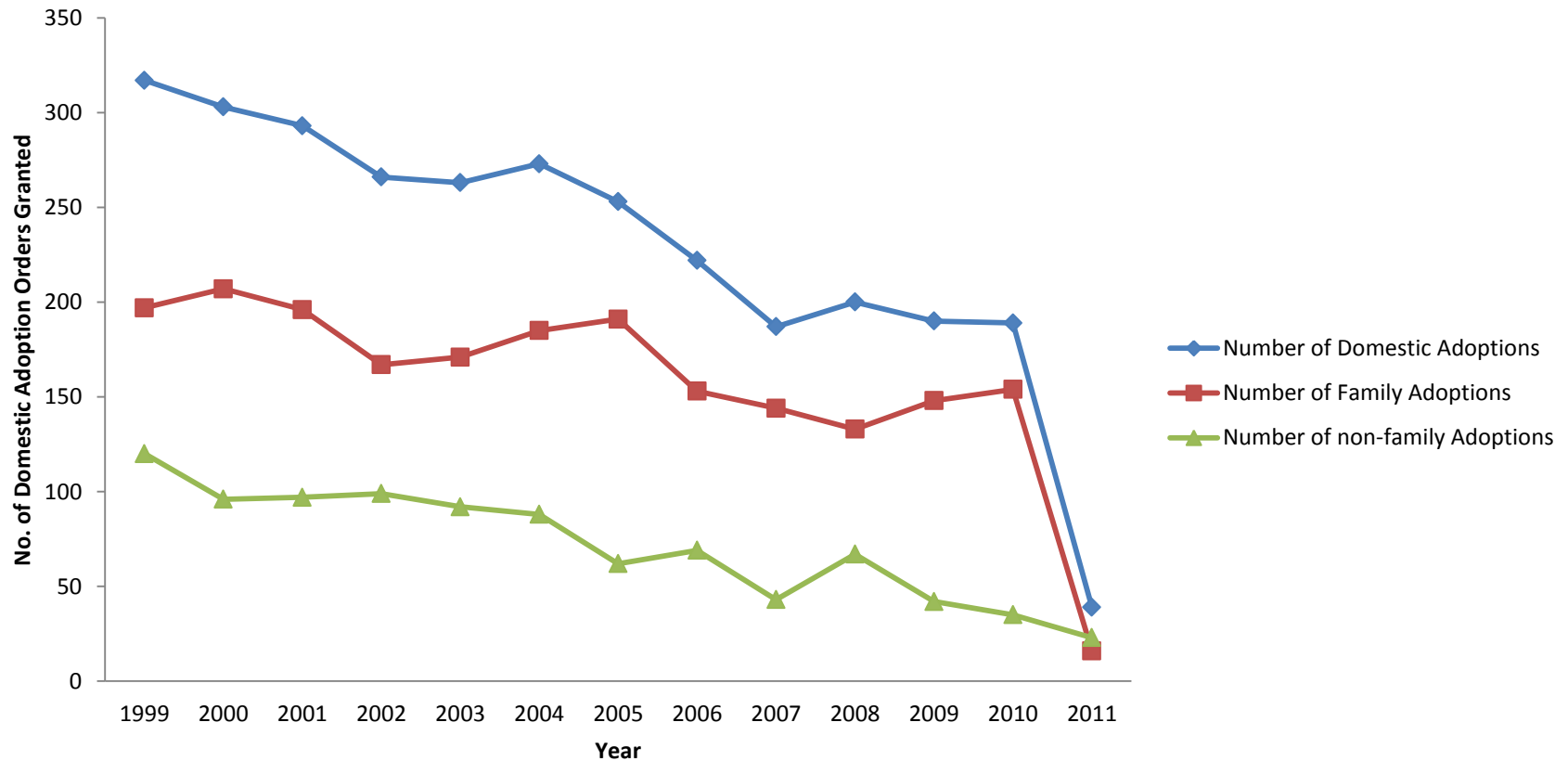
• Source : HSE, Review of Adequacy, 2011



# Domestic Adoptions in Ire.

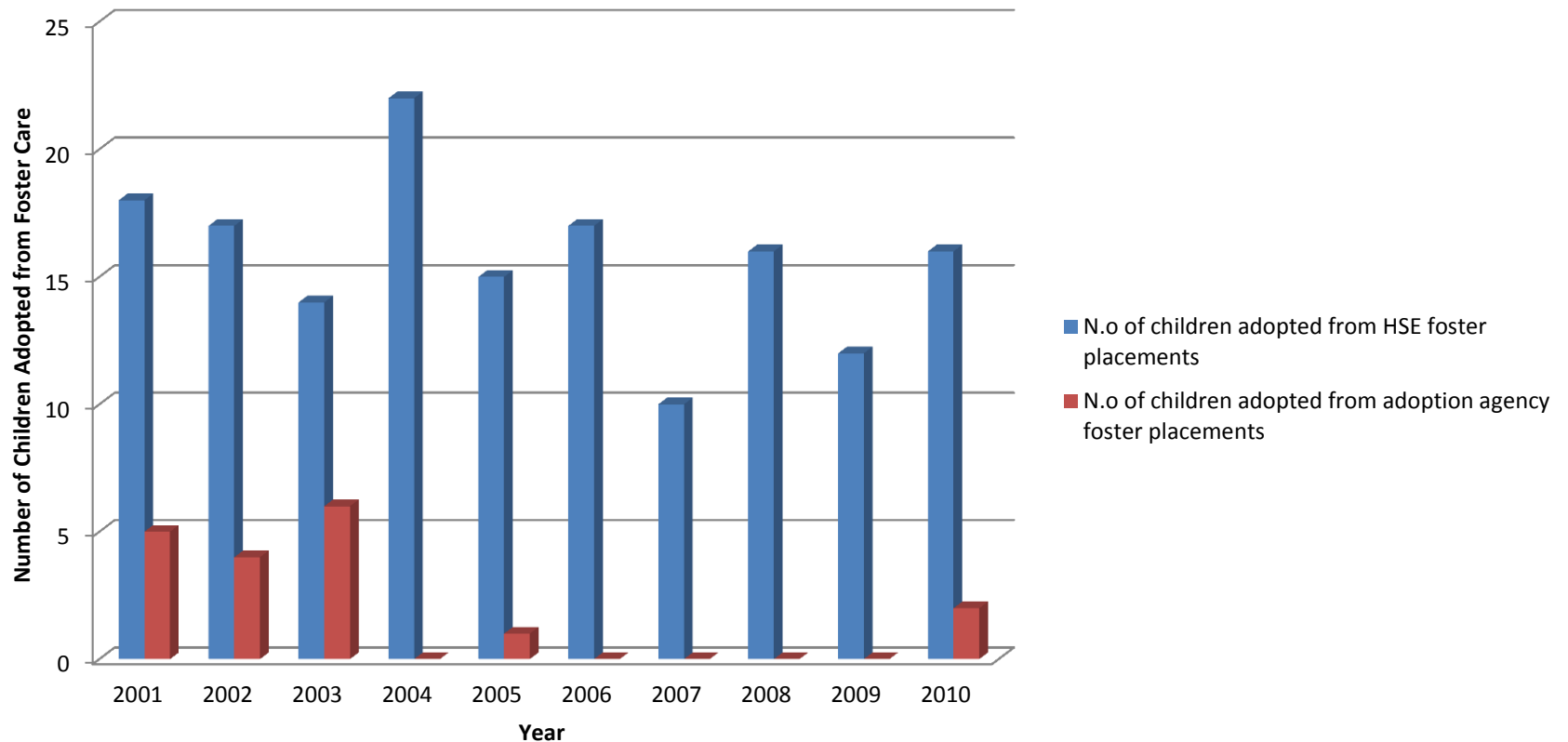
(Source : Adoption Board and AAI reports 1999 - 2011)

## Number of Domestic Adoption Orders Granted in Ireland 1999-2011



# Number of Children Adopted from Foster Care in Ireland 1999 -2010

Source Adoption Board and AAI reports 1999 - 2011



## Section 3: Permanency options and use?

- To explore what permanency options are available and used in Ireland
- How does this compare internationally?
- What accounts for differences?
- If options are not utilised, if so, why?

# Legal Guardianship uses in child welfare systems

- Recognition that children need stability
- **Ireland : Special Guardianship introduced in 2007 Amendment Act.**
  - Avail when child is in care for 5 yrs or more.
- **Legal Guardianship in USA** as part of ASFA 1997 Act : transfer parental rights to carer. (After 12 mths in care.)
  - BP can apply to transfer Legal G and is less cut off than adoption.
  - It ends child welfare involvement generally.
- **Sweden : First Introduced in 1983** and strengthened in Children and Parent Code 1990 : available after 3 yrs care
  - Refers to transfer of custody
  - BP can apply for transfer back with level of ease
  - ‘Swedish model of permanency in foster care’



# Where to : what debates etc

- To assist in identifying and contributing to the debates that now need to happen in Irish child welfare.
- What have the debates been during the referendum and what do they now need to be about?
- How does the adoption option fit with historical legacy of 'forced adoption'?
- Where is Ireland ideologically and how is this informing the issues?
- What does the Adoption Bill contain and what are implications for children, their families, carers now?
- What can we learn from other jurisdictions?
- What is the implications for future generations?

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Child Care Amendment Act 2007

Child Care Act 1991

## **Sweden**

Children and Parent Colde 1990

Social Services Act 1980 (SoL)

The Care of the Young Person Act 1990 (LVU)

## **USA**

The Child Abuse and Prevention & Treatment Act 1978

The Adoption and Safe Families Act 1997 (ASFA)

Social Security Act 1980