

Developing a Universal Definition of 'Care Experience', Incorporating the UNCRC and Equality into Adoption

Written evidence to the UK Parliament Education Committee

Scottish Adult Adoptee Movement (SAAM) — Adoptee Rights UK. Submitted 1 January 2026.

Why This Work Is Different

Adoption is repeatedly described as a legal process, yet adoption law does not legislate for adoption as a lived, lifelong condition. Once an adoption order is made, the process is treated as concluded and responsibility is reframed as private, despite the intervention being initiated, authorised, and enforced by the state — creating a structural gap in which the law governs the making of orders but not the consequences across identity, equality, safeguarding, health, justice, or adulthood.

This work exists because that gap exists: where adoption is treated as private law, public accountability is withdrawn, leaving support, rights, and remedies fragmented or absent, and requiring a scope of work that reflects not overreach, but systemic under-legislation.

Body of the Submission: Framing Issues Arising from Care Experience and Adoption

The following issues arise consistently across evidence submitted through the Universal Definition of Care Experience work, SAAM recommendations, and UK-wide processes. Together, they demonstrate that adoption cannot be separated from care experience, equality, safeguarding, education, or children's rights frameworks. Supporting evidence and contextual material are provided in Appendices A to F.

- 1. Care experience is lifelong and includes severance and displacement Impact does not end at placement, adoption, or age thresholds. Legal severance and physical displacement are core harms that must be recognised and addressed. Harm frequently emerges later in life, including delayed trauma, bereavement, parenthood, and crisis events.**
- 2. Adoption is part of care experience and must not be treated as an exit from it Adoption arises directly from care intervention. Legal permanence does not end impact, responsibility, or need for recognition. Framing adoption as an "exit" removes safeguards and accountability.**
- 3. Silence is structural, not absence of harm Many children cannot safely disclose while dependent on adopters. Independent advocacy and neutral mental health support are absent. Disclosure is often delayed until adulthood or major life events.**
- 4. "Early intervention" is misapplied to adoption Early intervention must occur before irreversible legal decisions. Adoption represents failure of early intervention, not its success.**

5. Support addresses the consequences of care — adoption law creates the barriers Support for the effects of care experience is necessary and appropriate. The core problem lies in adoption's permanence, irreversibility, and legal restrictions. Limitations on review, remedy, and participation generate lifelong impact. Support cannot compensate for rights removed by law.

6. Lifelong support and independent advisory provision Adoption orders are made about children, not with them. Adopted people are not parties to the legal process determining their identity, family, and legal status. Independent advisory provision is essential to address the lack of legal standing, review, and remedy.

7. There is no duty to inform adopted people of the legal process carried out in their childhood No automatic duty exists to inform adopted people that a legal process occurred, what decisions were made, what evidence was relied upon, or what legal consequences flow from the order. Knowledge is discretionary, inconsistent, and often delayed, undermining informed participation, equality before the law, and access to remedy.

8. Equality failures affecting adopted people Adopted people lack parity with other care-experienced groups. "As if born to" is applied selectively and collapses when harm occurs. Safeguarding and accountability fall away once permanence is asserted.

9. Adoption severance is an Adverse Childhood Experience (ACE) Infant and early separation is a primary trauma, causing pre-verbal, developmental, and lifelong harm, with intergenerational impact affecting adoptees' children and families.

10. Delayed and suppressed trauma is not accounted for in policy Trauma is often unrecognised in childhood. Systems rely on immediate disclosure and short-term outcomes. Education, mental health, justice, and crisis services encounter harm later.

11. Identity change and legal fiction create ongoing rights violations Forced change of name and legal identity causes lasting harm. No automatic right exists to restore birth identity, hold dual identity, or revoke adoption. "As if born to" operates as legal fiction rather than lived reality.

12. Absence of grievance, redress, and remedy mechanisms No effective route exists to challenge adoption decisions. No independent review or redress exists. Support is substituted for justice.

13. Records, data control, and information loss are systemic harms Fragmented, withheld, or destroyed records perpetuate trauma, with a direct impact on identity, health, and family life, compounded by a lack of centralised, independent record-holding.

14. Medical discrimination against adopted people Lack of access to family medical history and inadequate systems for adoptee-specific health risk create health inequality caused by state decisions.

15. Reconnection is a rights issue, not a private matter Reconnection is complex, traumatic, and lifelong, hampered by a lack of state-supported mediation and by financial, geographic, and emotional barriers.

16. International and cross-border adoption compounds harm Additional identity, cultural, and citizenship losses, and barriers to nationality, travel, and reconnection, create risks akin to trafficking practices.

17. Lifelong data, research, and visibility are absent No consistent identification of adoptee status exists across systems. Policy proceeds without evidence of lifelong impact.

18. UNCRC incorporation exposes a structural contradiction in Scotland Rights are incorporated in principle, but adoption remains excluded from enforcement, leaving identity, participation, and remedy rights inaccessible.

19. Adoption is routinely set aside in care reform Adoption is excluded from implementation of care reform commitments, with devolved competence cited while responsibility is avoided — the most extreme care intervention remains untouched.

20. Evidence of harm is consistent across processes The Universal Care Definition work, CPA submissions, JCHR submissions and SAAM's historic adoption recommendations all show the same pattern: adoption law remains outwith scope despite relevance.

Cumulative Issue

Denial of effective remedy and legal standing for adopted people, resulting from adoption being treated as a concluded private matter rather than a public act with lifelong consequences for education, wellbeing, identity, and equality.

Appendix A — Universal Definition of Care Experience: Views Submitted to Government

This appendix sets out relevant extracts and themes from SAAM's Universal Definition of Care Experience (UCD) submission, structured using the Scottish Government's own consultation questions, demonstrating that adoption, severance, delayed impact, and exclusion were already raised within a care-experience framework using language and concepts directly invited by government.

Across all eight consultation questions, SAAM's submitted position was consistent: a universal definition is necessary and should recognise care experience as lifelong rather than ending at placement, adoption, or age thresholds; that "care leaver" and "looked after" framings currently exclude adopted people; that legal severance and displacement must be recognised as core harms; and that language which implies closure — "forever", "resolved" — masks the reality of lifelong impact and discourages disclosure. The full set of questions and responses is available in the source consultation submission.

Appendix B — Adoption Barometer Evidence (UK)

This appendix draws on findings from the Adoption UK Adoption Barometer to provide quantitative and qualitative evidence of post-adoption experience, demonstrating that adoption does not resolve need or

vulnerability and that significant impacts persist across childhood, adolescence, and into adulthood. Key findings relevant to this submission include ongoing mental health and wellbeing needs, sustained reliance on post-adoption support, impact on education and daily functioning, and stress and instability within adoptive households. While the Barometer provides valuable evidence, it is framed within an adoption-support model and does not address legal identity, standing, or remedy — reinforcing this submission's argument that support evidence alone cannot account for the full impact of adoption.

Appendix C — Child Protection Authority (CPA) Submission

This appendix includes material from SAAM's submission to the Child Protection Authority, demonstrating that adoption-related safeguarding, accountability, and rights issues are already being raised within child protection and justice contexts. Key issues raised include adoption functioning as a safeguarding blind spot once an order is made; the exclusion of adopted people as autonomous rights-holders in safeguarding processes; the absence of effective remedy or accountability; and a consistent pattern of exclusion across statutory processes, including inquiry scopes that focus on care only up to the point of adoption.

Appendix D — Adoption Law and Lived Consequences: Evidence from a UK Lay Survey (Paul Tovey)

This appendix draws on UK work by Paul Tovey, including findings from a UK lay survey, to provide indicative evidence of lived experience arising from adoption as a legal process. While not statistically representative, the survey's findings are notable for their consistency with other evidence cited in this submission: a substantial proportion of respondents were not informed in childhood that a legal adoption process had taken place; many reported distress relating to loss or alteration of legal identity; trauma frequently emerged later in life, often triggered by adolescence, parenthood, bereavement, or contact with records; and respondents commonly reported difficulty accessing records and an absence of any clear route to challenge decisions made in their childhood.

Appendix E — Scotland: Care Reform, Rights Incorporation, and the Continued Exclusion of Adoption

This appendix sets out Scottish-specific context demonstrating how adoption is consistently excluded from care reform, rights incorporation, and children's planning frameworks, despite devolved competence. It covers the Independent Care Review and The Promise, where adopted people were not included as autonomous rights-holders; UNCRC incorporation in Scotland, where incorporated rights are not meaningfully applied to adoption; the Supreme Court's clarification of the constitutional limits on incorporation; the treatment of sibling relationships and the "sibling will" within care planning, which does not extend meaningfully into adoption; and the Children (Scotland) Reform and Planning Bill, where adoption outcomes remain largely unchanged despite new duties around early intervention, planning, wellbeing, and participation.

Appendix F — Background Reading, Evidence, and Engagement Considered

This appendix provides a non-exhaustive record of the reading, submissions, consultations, and engagement work that informed this submission, including: the Independent Care Review final report and The Promise Scotland's implementation material; submissions and correspondence to the Joint

Committee on Human Rights and the Child Protection Authority; the UN Convention on the Rights of the Child, its Scottish incorporation, and the Equality Act 2010; engagement with Adoption UK Scotland, AFKA Scotland, Who Cares? Scotland, and PAC-UK; the Adoption UK Barometer and related sector research; Paul Tovey's legal and policy analysis and lived-experience survey work; and comparative international material on post-adoption rights and recognition. The absence of a source from this list does not imply irrelevance, and additional material can be provided if requested by the Committee.