

# Adoption, Care Experience, and Structural Safeguarding Gaps

*Submission to the Department for Education consultation on the establishment of a Child Protection Authority*

Adoptee Rights UK, in collaboration with the Scottish Adult Adoptee Movement (SAAM). 2026.

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## Summary: Adoption, Safeguarding, and the Centenary Moment

2026 marks the centenary of the Adoption of Children Act 1926. That legislation was introduced following public outrage over the deaths of children placed in unregulated care arrangements, including baby-farming and informal placements where abuse and neglect occurred without state oversight. Adoption was presented as a safeguarding response to those failures — a mechanism through which the state would finally accept responsibility for protecting children placed outside their birth families.

One hundred years on, this submission is made because that original safeguarding purpose has been diluted and, in critical respects, lost. Adoption is now routinely treated as a permanent legal solution rather than an ongoing safeguarding context. Legal severance has come to operate as a point at which protection, oversight, advocacy, and accountability fall away, despite the lifelong consequences of state intervention continuing well beyond the making of an adoption order.

Those affected by care and adoption have been excluded from major abuse inquiries, including the Independent Inquiry into Child Sexual Abuse in England and Wales and the Scottish Child Abuse Inquiry. This exclusion is not incidental. It reflects a wider legal and policy assumption that adoption resolves safeguarding risk, rather than transforming it. As a result, harm occurring after adoption — including abuse, neglect, exploitation, identity harm, and secondary safeguarding risk — has remained largely unexamined at a systemic level.

This submission is therefore not retrospective or symbolic. It is a forward-looking warning. If adoption law and care experience remain outside the scope of the proposed Child Protection Authority, the Authority risks repeating a century-old pattern: responding to harm only after public outrage, rather than addressing the structural conditions that make that harm predictable. Safeguarding cannot be limited to permanence. Protection cannot end at legal severance. Systems established to prevent abuse must be able to see where abuse is rendered invisible by law.

## Covering Letter

Dear Mr MacAlister,

We are writing on behalf of Adoptee Rights UK, in collaboration with SAAM, to submit the attached policy paper to inform the Department for Education's consultation on the establishment of a Child Protection Authority.

This submission is not concerned with individual cases or service-level failings. It sets out structural safeguarding risks arising from adoption law and care experience that risk being excluded from the Authority's scope by design, including: the separation of adoption law from ordinary child protection law under the Children Act 1989; the loss of protection when children move from looked after to previously looked after status; the absence of independent advocacy and statutory oversight following adoption orders; the routine misclassification of present-day harm as "historic" trauma; unmanaged safeguarding

risks arising from adoption and care record disclosure; cross-border safeguarding fragmentation between England, Scotland and Wales; and the critical safeguarding blind spot affecting adopted adults when they later engage with services as parents.

As the paper sets out, adoption is not equivalent to other child protection contexts. Adoption legislation permanently severs public law duties, removes oversight, and creates lifelong legal and identity consequences without corresponding safeguarding mechanisms. For this reason, we argue that adoption law must be explicitly within the scope of the Child Protection Authority if it is to function effectively.

Yours sincerely, Adoptee Rights UK and SAAM

## **Body of Submission**

### **1. Adoption treated as a safeguarding endpoint rather than a safeguarding context**

Adoption is routinely framed as a safeguarding solution. In practice, it represents legal severance and a change in risk profile, not the removal of risk. Once an adoption order is made, corporate parenting duties permanently cease, statutory review mechanisms end, independent oversight is withdrawn, and safeguarding visibility is lost — with no equivalent statutory safeguarding duty replacing those withdrawn. Harm occurring after adoption orders is routinely reframed as a private family matter rather than recognised as a safeguarding failure requiring national learning.

**2. Adoption sits outside ordinary child protection law by legal design** Core child protection legislation, including the Children Act 1989, is designed to regulate safeguarding while the state retains public law responsibility. Adoption operates under separate legal frameworks — including the Adoption of Children Act 1926 and the Adoption and Children Act 2002 — which permanently sever legal relationships, extinguish public law duties, and transfer responsibility into private family life. This legal separation is foundational, not incidental, to the safeguarding gaps identified in this submission.

**3. Inconsistent recognition of risk in substitute family contexts** Safeguarding frameworks explicitly recognise step-parent and substitute parental relationships as higher-risk contexts requiring vigilance. Adopters, however, are not recognised as a safeguarding risk category once adoption is finalised, despite sharing key risk indicators including absence of prior attachment, power asymmetry, high emotional expectation, and children with complex trauma histories.

**4. Withdrawal of protection at the point of legal transition** The transition from looked after to previously looked after status is treated as an administrative success but represents a sharp withdrawal of protection: statutory reviews cease, independent oversight ends, advocacy is removed, and safeguarding responsibility is extinguished — despite evidence that harm may emerge or escalate following adoption.

**5. Absence of independent advocacy following adoption** Following adoption, children lose access to independent advocacy and statutory oversight. There is no

equivalent to an Independent Reviewing Officer, routine independent contact, or a professional whose sole duty is to represent the child's interests. Safeguarding without independent advocacy is not safeguarding — it is assumption.

**6. Post-adoption support does not equate to safeguarding** Post-adoption support mechanisms, including therapeutic provision and the Adoption Support Fund, are discretionary, time-limited, and non-statutory; are accessed via adoptive parents, not independently by the child; and carry no monitoring, review, escalation, or reporting duties. Support provision does not replace safeguarding oversight or accountability where harm occurs.

**7. Therapeutic reframing of present-day harm** Post-adoption distress is routinely attributed to pre-adoption trauma rather than assessed as a current safeguarding or unmet-need issue. When trauma is consistently located in the past, present-day harm becomes invisible.

**8. Absence of the child's legal voice in adoption outcomes** Children are not parties to adoption orders and have no independent legal voice once adopted. Adoption removes routine review, independent representation, and mechanisms for reassessment when circumstances change.

**9. Cumulative harm erased by legal transitions** Children may experience a sequence of state-managed transitions — removal, harm in care, adoption without unresolved trauma addressed, absence of post-adoption checks, and later breakdown — in which harm is carried forward while responsibility is reset at each stage, preventing cumulative safeguarding assessment and learning.

**10. Historic abuse misclassified as non-current risk** Across care, adoption, and family court decision-making, historic abuse is often acknowledged and then neutralised through language such as "historic" or "no current concerns". Risk does not disappear with time — responsibility does.

**11. Adopted adults, records, and unmanaged safeguarding risk** When adopted adults access adoption and care records, disclosure is treated as an administrative process rather than a safeguarding intervention, with no routine safeguarding assessment, no consideration of dependent children, and no duty of care attached to disclosure — despite records frequently containing information relating to abuse, violence, or convicted offenders.

**12. Adopted adults as parents: an intergenerational safeguarding blind spot** When adopted adults later engage with services as parents, safeguarding frameworks lack a coherent mechanism to recognise vulnerability arising from early separation and cumulative trauma. Distress is frequently interpreted as parental risk rather than unmet need, and many avoid seeking help due to fear of surveillance or child removal — creating predictable safeguarding risk through avoidance, not protection.

**13. Inquiry exclusion and structural invisibility** Those affected by adoption were explicitly excluded from the scope of both the Independent Inquiry into Child Sexual

**Abuse and the Scottish Child Abuse Inquiry, reflecting the legal framing of adoption as private family life rather than a child protection context, and removing routes to accountability, learning, and remedy.**

**14. Equality and unequal protection** Those affected by care and adoption experience demonstrable disadvantage across health, justice, and social outcomes, yet care experience and adoption status are not recognised within equality frameworks, resulting in indirect discrimination and unequal safeguarding protection contrary to the Public Sector Equality Duty.

**14A. Protection from exploitation following adoption** Children removed by the state have historically been exposed to exploitation by religious, institutional, and state actors. Adoption played a central role in this history by permanently severing legal ties to birth families while transferring children into arrangements that operated with limited oversight. This structural vulnerability has not disappeared — it has evolved. Adopted children remain uniquely exposed to exploitation following adoption orders because adoption combines maximum legal severance with minimum ongoing scrutiny, including unregulated exposure of adopted children's identities, images, and trauma narratives on digital platforms, and public storytelling or fundraising activity conducted without the child's informed consent. A Child Protection Authority that excludes adoption law and post-adoption safeguarding will be structurally unable to identify, prevent, or learn from exploitation occurring after adoption orders are made.

**15. The Promise, UNCRC incorporation, and the unresolved safeguarding gap in adoption** Scotland's reform agenda, including The Promise and UNCRC incorporation, reflects a clear commitment to rights-based approaches within care systems. However, neither framework has meaningfully addressed adoption law or post-adoption safeguarding. Once an adoption order is made, children fall outside the operational scope of Promise-related accountability, oversight, advocacy, and safeguarding mechanisms, and core UNCRC rights — including the right to identity (Article 8), to be heard (Article 12), and to protection from harm (Article 19) — are not actively safeguarded or reviewed following adoption.

## **Conclusion: Adoption Law Must Be Within CPA Scope**

The risks outlined in this submission arise from legal and structural design, not isolated failures. Because adoption law sits outside ordinary child protection law, safeguarding mechanisms fall away at the point legal orders are made, without replacement. If adoption legislation is not explicitly brought within the scope of the Child Protection Authority, the Authority will be structurally unable to prevent, identify, or learn from harm linked to adoption. Safeguarding requires continuity of risk recognition. Adoption law disrupts that continuity.

## **Appendix — Legal, Policy, Inquiry, and Evidence Base**

**A. Key UK Legislation** The Adoption of Children Act 1926, which introduced adoption in England and Wales following public concern over child deaths in informal care and baby-farming; the Adoption and Children Act 2002, the current

primary adoption legislation, establishing legal severance and the "as if born to" principle; the Children Act 1989, the core public law child protection framework, whose safeguarding duties largely cease post-adoption order; the Children and Young Persons (Scotland) Act 2014; the Equality Act 2010, under which care experience and adoption status are not recognised protected characteristics; and the Births and Deaths Registration Act 1953.

**B. Public Inquiries and Exclusions** The Independent Inquiry into Child Sexual Abuse (England and Wales) and the Scottish Child Abuse Inquiry both explicitly excluded adoption from their scope.

**C. International Human Rights Frameworks** The UN Convention on the Rights of the Child (Articles 3, 8, 12 and 19) and the European Convention on Human Rights (Articles 3, 8 and 14).

**D. Research, Surveys, and Evidence** The UK Adoptee Late Discovery Survey (Tovey, 2021), the Global Adoptee Late Discovery Survey (2023), the Adoption UK Barometer, and PAC-UK's large-scale consultation and service evidence.

**E. Scottish Policy and Reform Context** The Promise (Scotland); SAAM's Universal Care Definition; Scottish children's rights and wellbeing legislative reform work; sibling justice and permanence reform work; and adoptee-led policy work and recommendations from SAAM and Adoptee Rights UK, including the SAAM Universal Care Definition, the Adoptee Rights Framework (the Right to Know, the Right to Be Known, and the Right to Autonomy), legal and policy analysis of adoption law, documented safeguarding and record-keeping concerns, and analysis of inquiry exclusion and accountability gaps. This body of work is publicly available and continuously updated at [www.adopteerightsuk.co.uk](http://www.adopteerightsuk.co.uk).