

These notes refer to the Adoption and Children Act (Northern Ireland) 2022 (c.18) which received Royal Assent on 27 April 2022

Adoption and Children Act (Northern Ireland) 2022

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2 – Children Order Amendments

Section 120: Ascertainment of children’s wishes

Section 120 amends Article 18 (general duty of authority to provide social care for children in need, their families and others) and Article 21 (provision of accommodation for children: general) of the Children Order to require an authority to ascertain the wishes and feelings of the child in relation to the provision of those services and to give those wishes due consideration before determining what (if any) services to provide. Section 120 also makes similar amendment to Article 66 of the Children Order in relation to the authority’s duty to investigate.

Article 18 sets out the general duty of authorities to safeguard and promote the welfare of children in need in their area and subject to that duty, to promote the upbringing of those children by their families. This is to be achieved through the provision of personal social services appropriate to those children’s needs and the provision of services for the family of the child where it would safeguard and promote the child’s welfare. *Subsection (1)* inserts a new paragraph (4A) into Article 18. It places a duty on an authority that, when determining what services to provide to a child in need, the authority so far as reasonable practicable and consistent with the child’s welfare, should ascertain the child’s wishes and feelings and have due regard to them.

Article 21 requires the authority to provide accommodation for children in need in its area who require accommodation in certain specified circumstances. Paragraph (6) requires an authority before providing accommodation for a child to ascertain and take into consideration the child’s wishes in relation to the provision of accommodation, having regard to the age and understanding of the child. *Subsection (2)* of section 120 amends paragraph (6) to provide that the authority must also take into consideration the child’s feelings.

Article 66 places a duty on an authority to investigate where a child in its area has been made subject of an emergency protection order or taken into

police protection, or where the authority has reasonable cause to suspect the child has or is likely to suffer significant harm. It requires the authority to consider what course of action to take, sets out the direction the enquiries should take and provides that certain bodies must assist the authority in investigations provided that this would not be unreasonable. *Subsection (3)* of section 120 inserts new paragraph (5A) into Article 66. It has the effect of placing a duty on the authority that when making a determination under this Article, they must as far as is reasonably practicable and consistent with the child's welfare, ascertain the wishes and feelings of the child and give due consideration to them, again taking into consideration the age and understanding of the child.