

Adoption and permanence planning in Scotland: Impact of the Adoption and Children (Scotland) Act 2007 on key processes and timescales

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Abstract

Adoption and permanence planning has been a key feature of Scotland's policy in relation to children and young people who are "looked after." Although policy and law has significantly developed in recent years, there has been comparatively little research on permanence processes in Scotland. This paper outlines key findings from the first comprehensive study of permanence planning in Scotland. It examines the process for two cohorts of children where adoption or other types of permanence orders were made. The children were selected under the long standing Adoption (Scotland) Act 1978 and the more recent Adoption and Children (Scotland) Act 2007. In total, 300 cases were examined, analysing data from the children's first contact with services through to the order made by the Scottish Courts. This paper pays particular attention to the timescales found at key stages under the two sets of legislation and asks what difference the change in legislation has made.

KEYWORDS

adoption, decision-making, looked-after children, permanence, Scotland, timescales

1 | INTRODUCTION

1.1 | Scottish context

In 2016, there were 15,317 looked-after children in Scotland. This figure represents a decline of approximately a thousand children since a peak in 2012 (Scottish Government, 2017). Up until then, the number of looked-after children had been increasing since 2001, and was at its highest since 1983. There are a range of different legal reasons that a child is considered "looked after" in Scotland. The majority are under a compulsory supervision order (previously a supervision requirement [SR]) which includes children living with a parent, family members, foster carers, and different types of residential care (under Children's Hearings [Scotland] Act 2011 [the 2011 Act]). Children are also considered looked after when placed away from home on a voluntary basis under Section 25 of the Children (Scotland) Act 1995 (the 1995 Act) or under emergency measures such as a child protection order (CPO).

The number of children entering and leaving the care system can change for a variety of reasons but the idea of children "languishing" or drifting in the system is not a new one (Beckett & McKeigue, 2003). The previously increasing number of children on SRs in Scotland prompted research into children who had been under compulsory measures for at least 5 years (Henderson & Hanson, 2012). The research showed that the proportion of children on an SR for this length of time was increasing at around 15% to 17%, and of the 90 children whose case files were analysed, 29% of them had permanence proceedings underway and a further 32% had lived in a stable placement, primarily kinship or foster care, for at least 5 years (ibid.) Therefore, although the majority of these children had been under a SR for some time, they appeared to be living in a long-term placement or heading towards one.

The number of children adopted each year in Scotland is small in comparison with those who are looked after. In 2016, adoptions reached a new high of 523. This figure though includes step-parent or partner adoptions, estimated to be the majority of the 131 single adult adoptions (National Records of Scotland, 2016).

1.2 | Timeliness

Research has explored the challenges and many aspects to securing a stable and long-term placement for children who can no longer live with their birth parent(s), including the possible effects of placement or carer type on child outcomes (Biehal, Ellison, Baker, & Sinclair, 2010; McSherry, Fargas, & Weatherall, 2016; Sinclair, Baker, Lee, & Gibbs, 2007; Triseliotis, 2002). A core aspect in planning and achieving long-term placements is time. Delay can occur at any point throughout the permanence process. Across the United Kingdom, factors associated in causing delay are shown to be the length of time in initial care proceedings, including the difficulty in making decisions to move children (Biehal et al., 2010; McKeigue & Beckett, 2010), the lack of resources in children's services, including that to undertake professional assessments of parenting capacity (Kelly & McSherry, 2002; McKeigue & Beckett, 2010), the use of expert witnesses (Kelly & McSherry, 2002; Ward, Brown, & Westlake, 2012), and a lack of understanding of children's developmental needs (Brown & Ward, 2013).

Particular child characteristics have also been found to affect the time taken to progress permanence. A child's ethnicity can impact the time taken to decide on permanence as well as the matching process (Farmer & Dance, 2016; Selwyn et al., 2010). Children with disabilities, as well as developmental concerns, externalizing behaviour and previous exposure to domestic abuse can also influence placement opportunities (Anthony et al., 2016). Children who are part of a sibling group can face further time delays (Saunders & Selwyn, 2011; Sinclair et al., 2007) with birth order influencing the likelihood of long-term foster care or adoption (Henderson, Jones, & Woods, 2017).

In order to reduce delay in the adoption process in England, the English Government introduced performance targets aimed at social work and the courts (Department of Education, 2012). However, the recent enquiry on behalf of the British Association of Social Workers raises serious questions about the current adoption process in England. Key issues raised include the impact of austerity on services both before and after adoption. Furthermore, they found the current system also having a significant impact on the ability of social workers to use their professional standards of ethics to inform adoption practice (Featherstone, Gupta, & Mills, 2018).

1.3 | Scottish Policy

Maclean and Hudson (2010) point out that academic study on fostering and adoption in Scotland was strong in the 1980s and 1990s, and since then, the Scottish Government and their funded agencies have primarily lead developments in this field. A key example of this is the introduction of the 2007 Act. The 2007 Act followed the work done by the Adoption Policy Review Group (2005) and brought about a number of changes designed to "improve, modernise and extend adoption in Scotland and to provide greater stability for children who cannot live with their original families" (Scottish Parliament, 2006). Among other matters, a key development of the 2007 Act was to allow a wider range of people to adopt, such as same-sex couples and couples who are not married or in a civil partnership.

The act also made significant changes to the existing legal orders used in permanence and adoption. Previous to the 2007 Act, children were granted an adoption order or freeing order under the 1978 Act. Under the 1978 Act, an adoption order placed parental rights and responsibilities to a child to their adoptive parents and the birth parents' rights were removed. A freeing order also removed the rights of the birth parents, but the new rights were given to the adoption agency, that is, the local authority. This order removed the birth parents' rights without the prospective adoptive parents being involved in sometimes lengthy court process when birth parents opposed the adoption. It also allowed the local authority to begin the court process without a formal match having been made to prospective parents. In order for a child to be adopted though, a second court process was necessary where the prospective adoptive parents would lodge a petition for an adoption order after the freeing order was granted.

Recognizing that not all children would be adopted, previous legislation also attempted to safeguard the long-term welfare of certain children through a parental responsibilities order (PRO). Under the 1995 Act, a PRO would grant the local authority all rights and responsibilities for a child, except agreeing (or not) to being freed for adoption or adopted. A PRO could only be applied for by a local authority where it was considered to be in the child's best interests (Scottish Executive, 2004). Like the other orders, when making a PRO, the child's SR would be terminated by the court, thus removing them from the children's hearings system. Legally, the child remained looked after, but it would no longer be necessary to return to children's hearings for annual reviews or for such matters such as a change in placement.

There were some recognizable drawbacks with the previous legislation. A freeing order, for example, although transferring parental rights and responsibilities to the local authority, still left a child in an interim stage or limbo until a subsequent adoption order was made. Also, where a local authority obtained a PRO, this did not offer any security to a child as being a part of a particular family, nor allow birth parents or other family members to later apply for contact or a residence order (Scottish Executive, 2006).

A significant change created by the 2007 Act was the introduction of permanence orders (POs). POs replaced freeing orders and PROs. The intention of the PO is to increase stability for children who cannot live with their birth family, although being flexible enough to allow for needs of individual children. A key component of the PO is the ability of the court to

"allocate parental responsibilities and rights between a local authority, foster carers and birth parents, as it sees fit for the best interests of the child" (ibid. p. 6). In effect, foster carers and in fact birth parents have greater recognition of their role in the lives of children who are permanently placed away from home. For example, foster carers may be given specific authority to make decisions in relation to a child's education, including choice of school or attending school excursions or given authority to apply for a passport for a child. Parents may also have contact conditions set where it is in the child's interests. The rights are always shared with the local authority though who are the only ones who can apply for a PO and who maintain the right to regulate the child's residence.

The PO can also be used as a route to adoption. A PO can be granted with a Permanence Order with Authority to Adopt (POA). In effect, this is similar to what was previously a freeing order, but the intention of a POA is to offer greater security to a child, for if a subsequent adoption does not occur, the order can be varied and parental rights and responsibilities reallocated according to the interests of the child. In fact, variations can be applied for with any PO that is in force to reflect that the needs of a child can vary in the future. POs have steadily increased since their introduction with 1,669 POs and 262 POAs made in 2016 (Scottish Government, 2017).

Overall, the adoption and review group clearly debated the range of permanence options that children may follow and politically did not consider adoption as the primary route, or what has become known in England as the “golden standard.” More recently, in fact, attention has returned to poor outcomes for children on a compulsory supervision order at home, as they continue to be at least a quarter of the looked-after children population (Scottish Government, 2015).

1.4 | The studies

The basis of this paper is an examination of the implementation of Scottish legislation related to permanence and adoption. In particular, the research focuses on the children dealt with under the 1978 and 2007 Acts and the timescales in progressing children through these different legal processes. The paper draws together research from two key studies. The first study was conducted by the Scottish Children's Reporter Administration (SCRA) to understand the process of permanence planning and adoption for looked-after children in Scotland under the 1978 and 1995 Acts (Hanson, 2011; Henderson, Hanson, & Whitehead, 2011). It examined the process according to the key decision-making moments along the child's permanence plan and followed this process through the children's hearings system and the Scottish courts. The Scottish Government responded to the initial research (Scottish Government, 2011), and funding was given to the Centre for Excellence for Looked After Children in Scotland to form a permanence and care excellence team that would take forward work in supporting local authorities to develop and disseminate good and improved practice (Mitchell & Porter, 2016). As the new legislation became fully implemented, the Scottish Government then commissioned SCRA to follow up on its initial research to conduct the second study and assess progress in delivering permanence through the implementation of the 2007 Act (Henderson, Hanson, Kurlus, Hunt, & Laing, 2015).

2 | METHOD

2.1 | Ethical considerations and permissions

The studies required stringent ethical consideration due to the highly confidential nature of adoption proceedings. Once a Scottish court has granted an adoption order, a POA, or freeing order, the court process records are sealed for 100 years. They are then no longer accessible to any person except the person adopted once they are 16 years old. Only in exceptional circumstances can the sealed documents be

accessed by anyone else. One circumstance is for research purposes if the research will be used to improve adoption law and/or practice, but only where Scottish Ministers authorize the access. Therefore, in both data-collection periods, permission was gained from the Scottish Government Minister for Children and Young People, along with the Lord President and the six sheriffs principal before the data collection began.

2.2 | Study samples

Identifying children for the research was a complicated process as no single organization in Scotland centrally holds information on looked-after children who have been adopted or had a PO/PRO. As the research was to examine cases from across Scotland, it was not practical to approach the 32 local authorities to identify children relative to the research aims. The research team were able to identify a potential sample using records from the SCRA's Data Warehouse and Case Management System. Identifying the children involved finding those whose SR had been terminated and where a children's hearing had previously taken place in relation to adoption or permanence. Such hearings are held to provide advice to the courts on permanence or adoption shortly before the court process begins. Identifying the children towards the end of their involvement with the children's hearings system allowed for the sample to include children of all ages and also with different lengths of time of being looked after. Children who had gone on to be adopted outside of Scotland were excluded from the studies as their court records could not be accessed.

The sample populations were restricted to including children who had been dealt with under the 1978 Act and 1995 Act or 2007 Act exclusively. In the first study, identifying children whose orders had concluded under the previous legislation provided a sample of 100 children—the 1978 Act cohort. These children all had adoption orders, PROs, or freeing orders made by sheriff courts in 2009–2010. In the second group, the 200 children were selected randomly from a population of 290—the 2007 Act cohort. These children all had adoption orders or POs made by sheriff courts in 2013–2014.

2.3 | Data collection and analysis

Data were collected from case files and records held by SCRA offices and individual sheriff courts. A defined set of variables was created and piloted with SCRA information at the beginning of the first study. Cases from the pilot were not included in the main study. Data were stored in Microsoft Excel on encrypted laptops. In order to ensure confidentiality, no names of any children were stored with the data. The variables used for both cohorts included background characteristics of the child, when there were first concerns about the child, their initial referral(s) to the children's reporter, their placement histories, meetings around the permanence process, advice children's hearings, the submission of petition to court, curator ad litem and reporting officer roles, and court scheduling, including the final court hearing date when the order was granted. Supplementary information was also collected where there appeared to be delays or periods without progress. Further data were collected on the 2007 Act cohort on contact arrangements set by children's hearings and courts and on some

specific changes introduced by the 2007 Act. The data were collected in the first study in 2010 and the second study in 2014.

Descriptive statistics and time period calculations were made using Excel.

3 | FINDINGS

3.1 | The children and their families

The 300 children across the two groups comprised of 49% females ($n = 147$) and 51% males. The slightly higher proportion of boys to girls is similar to the proportion of boys starting to be looked after in 2016, which was 54% (Scottish Government, 2017). Information surrounding ethnicity was only collected for the 2007 Act cohort. In this study, it was found that 90% of the children had their ethnicity recorded as White—English/Welsh/Scottish/Northern Irish/British. For 6%, their ethnicity was not recorded. The remaining 4% were recorded as of “mixed” ethnicity. Information on disability was also recorded for the 2007 Act cohort. Twenty seven of the 200 children were recorded as having a disability with “multiple disabilities” ($n = 7$), learning disability ($n = 5$), and social, emotional, and behavioural difficulties ($n = 5$) being the most common. Information on disabilities may be underreported however, as 21% of the children had no information recorded about disability.

3.2 | Parents and siblings

The parents of the children in the study had often experienced adverse circumstances when they were children themselves. In the 2007 Act cohort, it was recorded as to whether the birth mother or father had been a looked-after child themselves. It was found that in 55% of the cases, there was at least one parent who had previously been looked after. This was 44% of the mothers ($n = 87$) and 32% of fathers ($n = 63$). In comparison, Selwyn, Sturgess, Quinton, and Baxter (2006) report that in their study of adoption in England, 63% of mothers and 48% of fathers had spent periods of time in care. Kelly and McSherry (2002) also found that almost 50% of mothers and 12% of fathers in their study in Northern Ireland had been in care. Within this Scottish study, it is important to note that the actual numbers may be higher. The data were recorded in the study where background reports explicitly made reference to parents being looked after in their pasts. There were more parents where it was mentioned that as a child, there had been social work involvement, but it was not possible to tell the extent of this. Information on fathers was also less prevalent than that on mothers.

There were a number of parents who had previously experienced the removal of their children prior to the child in the research. In the 1978 Act cohort, 45% of parents had already been separated from a child; in the 2007 Act cohort, this was 65%. The children in the studies often had another sibling also being adopted or placed permanently. In the 1978 Act cohort, 16% had a sibling permanently placed prior to them, and the same proportion in the 2007 Act cohort had a sibling with permanence in place prior to them being born. Table 1 shows the breakdown of sibling placement for children in the 2007 Act cohort.

TABLE 1 Children with siblings—Types of sibling placements

Sibling(s)	No. of children
Accommodated and no adoption/permanence in place or planned	69
Permanence/adopted at the same time as child by different people	60
Permanence/adopted by same people as child	59
Permanence/adopted prior to child	35
Permanence/adopted before child born	26
Total children with siblings permanence or accommodated	164 ^a

Note. $N = 175$.

^aThe sum does not equal the total as some children had siblings in different types of placements.

3.3 | Assessment of risk

The majority of the children in the research were known to social services at the time of their birth. Sixty-one percent of the 1978 Act cohort and 66% of the 2007 Act cohort had parents involved with social work. Many children in both studies had been identified as being at risk of harm at the time of their birth or while their mother was pregnant through a pre-birth assessment or case conference, with 44% and 49% considered at this level. The prevalence of risks identified towards the child often resulted in them being placed on the child protection register. In the 1978 Act group, 60 of the 100 children were placed on the register, 22 of whom placed on or before their births. In the 2007 Act group, 142 of the 200 children (71%) were placed on the register, with 35 children (18%) at or before birth. The most common category recorded on the register across the 300 children was for physical neglect or risk of physical neglect, with a total of 123 children (62%) recorded as such.

A further indication of risk in the lives of these children was the use of CPOs. Similar to emergency protection orders in England and Wales, the local authority (or other individuals) can apply to a court for the immediate removal of a child through a CPO, where it is considered that the child is at risk of significant harm and needs moved to, or kept in, a place of safety. The CPO is a temporary measure only and is reviewed by a children's hearing on the second working day of the order. If continued and applicable, grounds of referral are taken to an eighth working day hearing where more long term compulsory measures are considered. Table 2 below shows the ages of the children when a CPO was first made.

A CPO had been made (at least once) for 46% of all the children in the two studies. This shows the high level of risk considered in relation these children. Proportionally, CPOs were most commonly made when the children were very young, with around half in each cohort being under 6 months old. The numbers in brackets show the number of children where a CPO was made within a week of their birth. Again, this highlights the risk considered to particularly young and vulnerable children. It also highlights the use of CPOs in Scotland. For 23% of the children in both groups, the CPO was their first contact with the children's hearings system, suggesting that local authorities see this as an important route for securing the protection of a child.

TABLE 2 Ages of children when CPOs made

Age of children	No. of children 1978 Act cohort	No. of children 2007 Act cohort
Under 6 months	27 (15)	46 (27)
6–11 months	6	4
1–<2 years	6	6
2–<3 years	2	8
3–<4 years	0	10
4–<5 years	3	5
5 years and over	3	13
Total children with CPOs	47	92

Note. CPOs: child protection orders; $N = 300$.

3.4 | Key decision-making stages

3.4.1 | The decision to pursue permanence

All the children studied had achieved legal permanence through the different orders made. For some, this was adoption, and for others, parental rights and responsibilities were granted to their local authority, either solely or on a shared basis. In this sense, the decision made to pursue permanence away from the birth family had come to fruition. For many children though, this decision took a number of years. Hindsight will always be a factor in research such as this, but the findings show that this early decision-making stage can impact the type of order made.

The time taken to decide on permanence, in this research, was calculated from the child's first involvement with social work services to permanence being considered at a formal meeting. The recording of such decision was usually stated within looked-after child reviews, permanence planning meetings, or other types of multi-agency meetings. Wherever this first occurred was the date used in calculations.

Table 3 shows that where the decision for the child to be permanently placed away from home was taken sooner rather than later; these children progressed through the adoption route (including POAs) more commonly. Where this decision took at least 3 years, fewer children were becoming adopted and more received a different PO. This pattern was consistent across the two different periods of legislation. In one respect though, the speed of this decision was also linked to the age of the child. For 42% ($n = 83$) of the children being

TABLE 3 Time between first service and permanence identified

Time taken	Adoption		Other permanence	
	1978	2007	PRO	PO 2007
Under 6 months	16	22	0	2
6–<12 months	15	30	1	8
1–<2 years	23	31	1	4
2–<3 years	12	16	4	14
3–<4 years	7	10	2	5
4–<5 years	1	11	3	11
5 years and over	1	3	5	30
Total children	75	123	16	74

Note. PO: permanence order; PRO: parental responsibilities order; $N = 288$.

adopted, this decision had been made within 12 months, in comparison to just 12% of children who went onto other forms of permanence. But out of the adoptions group, the majority (80%, $n = 66$) were children who had been identified as at risk around their births. Thus, most were still babies when permanence was decided.

Exploring the data further though suggests that the time taken to make this initial decision is perhaps still more important than simply the age of the child in relation to the type of court order made. In the 2007 Act cohort, there were 30 children who received a PO, but the initial permanence decision took at least 5 years. Surprisingly, 21 of these children were under 1 year old when social work services were first involved, and three of these children had been identified as at risk around their birth. Therefore, these children were still very young when services were working with their families, but it took much longer to decide on permanence away from home. A PO was then considered more appropriate.

The time taken to decide on a permanent placement away from home was very similar across the two cohorts for this part of the permanence process. Within those adopted, 41% had permanence identified within 12 months under the 1978 Act, and under the 2007 Act, this was 42%. Alternatively, for the nonadoptions, this decision took longer, with over 50% in each cohort taking at least 4 years. Therefore, for this part of the process, the change in legislation appeared to have no effect either way on the times taken to make this decision.

The lack of change across the two cohorts is to be noted. This particular stage of decision-making is notoriously complex (Triseliotis, 2002) and, as noted in Northern Ireland, is highly stressful for the professional (Kelly & McSherry, 2002). The finality of adoption in severing the parent–child relationship requires ethical judgement (Featherstone et al., 2018) and is heightened in England, Scotland, and Wales as continued direct contact between a birth parent and their child is extremely rare (ibid.). This core decision-making process could be explored further in the Scottish context with professionals more qualitatively.

3.4.2 | Adoption and permanence panel

Another key stage in the permanence process is matching the child with their permanent carer(s). The match between a child and prospective carer is considered and recommended by an adoption and permanence panel. The local authority's agency decision maker then makes the decision to approve the recommendation or not. The dates of the panels were recorded for both data collection periods. However, this information was not always available in reports. Furthermore, where a freeing order or POA was being progressed, the matching process had not always taken place at the time of study.

Table 4 shows the time taken between permanence being decided and the matching panel being convened.

One of the core changes to permanence legislation within the 2007 Act was to allow a wider range of people to adopt. The act introduced the approval of individuals or couples living together in an "enduring family relationship." Similarly, Scottish Government (2010) regulations dispensed with applying categories to types of people with whom a child could be fostered. The change meant

TABLE 4 Time taken between permanence decision and matching/adoption and permanence panel

Time taken in months	Adoption		Other permanence	
	1978	2007	PRO	PO 2007
<6	13	14	1	4
6-11	18	26	4	3
12-17	13	25	0	5
18-23	8	15	3	4
24-35	5	8	2	12
36-47	1	5	1	9
48-59	0	1	1	7
60 or more	1	5	1	6
Total children	59	99	13	50

Note. PO: permanence order; PRO: parental responsibilities order; $N = 221$.

fostering assessments apply to any person, regardless of family structure or relationship type. With a wider group of people being able to apply to foster or adopt, there could be potential for the time taken during the matching process to reduce, due to an increase in availability of carers.

Data from this study though show that the legislation and regulations have not impacted timescales for this period in the permanence process. Within the adoptions, a greater proportion of children were matched within a year from permanence being decided within the 1978 Act cohort (53%, $n = 31$) than within the 2007 Act cohort, 40% ($n = 40$). Furthermore, there was greater proportion of children in the 2007 Act cohort where this process took at least 3 years (11% vs. 3%). Similar experiences were shown for children under PROs or POs. Once the permanence decision had been made, children tended to be matched more quickly under the previous legislation.

It was not possible to compare if a higher rate of disability or additional needs of the child were a contributing factor in delay in the second cohort as these data were not available for the first cohort. Also, the high proportions of White British children in the Scottish context makes ethnicity to be an unlikely influencing factor like it is in England (Farmer & Dance, 2016; Selwyn et al., 2010). Sibling groups can slow down the matching process (Saunders & Selwyn, 2011), so further exploration of the data was made for prevalence. The 1978 cohort had a sibling going through the permanence process at the same time in 47% of cases, and in the 2007 group, this was the case for 53% of the children, so a small increase but only partial possible explanation. Of course, the availability of adopters and carers is still part of the equation. Therefore, it may well be like Bell, Wilson, and Crawshaw (2002) argue that widening the diversity of carers through the law is right, but the recruitment and assessment process needs also to develop to fully attract and prepare diverse family units.

3.4.3 | Court Processes

The involvement of the sheriff courts in permanence proceedings begins when an application for a legal order is submitted. When a local authority or prospective adoptive parent submits an application to the court, a report must also be submitted, which details the child's

circumstances and background.¹ These reports are commonly submitted at the same time as the application, though extensions can be applied for (Henderson et al., 2015). Prior to the court hearings being held, the courts also appoint officers of the court for specific roles. A curator ad litem will investigate each case and give advice to the court on the child and their best interests as well as ascertain the child's consent towards the order if they are aged 12 years or more.² Reporting officers contact the birth parents and ensure they fully understand the process and provide a further opportunity to consent to the application, should they wish to. Although these two roles are quite separate, it was common for the same person to do both. These reports commonly took between 1 and 2 months to be completed. Once reports had been received by the court, hearings were set.

Table 5 shows the overall timescale for the court process. Where a freeing order or POA was applied for, the timescales for the order to be granted are included within the adoption figures. For these children though, a subsequent adoption order would still need to be applied for once the local authority was in a position to proceed, for a full adoption to take place. Any data on subsequent adoption orders have not been included here.

Our findings that the court processes were relatively quick to complete in comparison with the processes prior to court. Although the 2007 Act did not make substantial changes to the court process with regard to adoptions, the research shows that this stage of permanence proceedings was progressed more quickly. Out of the 121 children who were adopted or obtained a POA under the 2007 Act, 62% had an order granted within 6 months, in comparison with 47% of adoptions and freeing orders under the 1978 Act. Of even greater interest, however, is the comparison of nonadoptions. The introduction of the PO was a key change in legislation. It is specifically designed to be a "flexible" option for each individual child largely due to the ancillary provisions related to the order. It is to the court dealing with the case to decide what provisions to give and to whom, though anyone who is part of the application, such as foster carers, can ask for specific provisions for themselves (Plumtree, 2011). All decisions made by the court should be for the benefit of the child. Despite the new flexibility of a PO, the research here shows that this had not had a particular impact on reducing timescales. PROs under the previous legislation were still progressed the most quickly in court, with 86% completing within 6 months, in comparison with 66% of POs.

Further analysis of court delays was possible for the 2007 cohort. These data were collected across adoptions and PO cases. Reasons for delay were found to be difficulties in intimating birth parents and/or birth parents failed to attend (44%), birth parents fail to instruct

TABLE 5 Time between application submission and court order granted

Time taken in months	Adoption		Other permanence	
	1978	2007	PRO	PO 2007
<6	37	75	18	48
6-11	29	39	3	19
12 or more	13	7	0	6
Total children	79	121	21	73

Note. PO: permanence order; PRO: parental responsibilities order; $N = 294$.

solicitor/and or solicitor consequently withdraws (30%), errors or missing documents in paperwork (25%), need for expert reports (17%), and negotiations with birth families over order conditions (16%). Therefore, the biggest impacts on court timescales were not related to the new provisions under the 2007 Act.

4 | CONCLUSION

This paper outlines the main findings from two extensive studies of permanence proceedings in Scotland. Two cohorts of children were studied. The first cohort proceeded under the Adoption (Scotland) Act 1978 and Children (Scotland) Act 1995, whereas the second fell under the Adoption and Children (Scotland) Act 2007. Altogether, 300 children from across the country were followed from their initial contact with services through to a court order being granted.

All four governments in the United Kingdom have recognized that for children whose parents present risks such that they cannot be in their care that decisions on their permanent care should be made at the earliest opportunity and have introduced policies to this end (Anthony et al., 2016; Department for Education, 2015; McSherry, Weatherall, Larkin, Fargas Malet, & Kelly, 2010; Scottish Government, 2015). In Scotland, the 2007 Act was introduced to provide stability to children living away from their birth parents and introduced new orders that include routes to adoption but also offered alternative legal stability for nonadoptees. The research highlights that the precourt stages in the permanence process in Scotland account for the majority of the time spent within this system. This is similar to other U.K. jurisdictions (Anthony et al., 2016; Ivaldi, 2000; Kelly & McSherry, 2002). The data gathered on the use of CPOs also show that local authorities are assessing these children as at significant levels of risk and often look to move children to a safe place under emergency arrangements at the beginning of the child-protection process. These measures appear to show that children are placed (or kept) away from home quickly but then the decision-making processes begin to slow down. This early decision-making stage had not been impacted by the change in law as there was little difference across the 1978 Act and 2007 Act cohorts.

The change in legislation also had no impact on the speed of the matching process. Both adoptions and nonadoptions were matched more quickly under the previous legislation. The 2007 Act has rightly ended the discrimination faced by couples and individuals previously barred from adopting and fostering children, and since its implementation, 97 same-sex couples have adopted (National Records of Scotland, 2016). However, the matching process is not simply about an availability of adults who will offer a permanent home to a child. The needs of the child are paramount and at times complex. Children can also be part of a sibling group and thus time needs to be taken to consider whether siblings are placed together or apart. These matters are not accounted for through the change in the law.

One area of progress made between the two cohorts was found in the court processes. Adoptions under the 2007 Act did progress more quickly than those under the 1978 Act, but the same was not to be found with the introduction of POs. Deeper analysis of court data determined that matters surrounding the legal rights and

representation of birth parents accounted for the majority of the delay at this stage.

Overall, the modernization of adoption and permanence law has been welcomed in Scotland. This research has shown though that the change in legislation in itself has not made any significant impact on reducing the time taken to complete the permanence process for children. Creating effective development requires working with the agencies and local authorities to enhance their own practice and decision-making, which a change in the law alone cannot achieve. This work has begun in Scotland via the Permanence and Care Excellence programme (Mitchell & Porter, 2016). Aimed at reducing waiting times across the process through a whole systems approach, work is underway to consider issues such as assessment and intervention as well as wider consideration of leadership and culture. There is emerging evidence that the Permanence and Care Excellence approach may be starting to take effect with recent research finding that there has been an increase in number of young children in Scotland having permanence plans in place before they are 3 years old (Woods & Henderson, forthcoming). Our findings that in Scotland legislative change in itself appears to have had little impact on care and permanence planning for looked-after children have resonance with conclusions of Lord Lamming's (2009) review of child protection in England that although legislation, policies, and procedures are important and necessary, it is the robust and consistent implementation of them by services that effects real change.

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ENDNOTES

- ¹ Section 17 Adoption and Children (Scotland) Act 2007 or Section 23 of the Adoption (Scotland) Act 1978. This report was not required for applications for a parental responsibilities order under the Children (Scotland) Act 1995.
- ² There is no formal requirement for a child over 12 years old to consent to a parental responsibilities order under the Children (Scotland) Act 1995, but in practice, children's views were usually obtained.

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