

APPENDIX 4

Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption

Schedule

Criteria in Relation to the Accreditation of Bodies under the *Hague Convention on Protection of Children and Co-operation in Respect of Inter-country Adoption*.

Part 1 – Background

1. States and Territories may enter into arrangements with a body for the accreditation of that body to provide State or Territory intercountry adoption services or across-border services consistent with the terms of accreditation.
2. A body applying for accreditation is required to satisfy the criteria set out in Part III.
3. Accreditation of a body is subject to annual review and may be revoked at any time by the State Central Authority issuing accreditation if the body does not comply with the criteria set out in Part IV.
4. A State Central Authority that accredits a body or revokes the accreditation of a body is required to provide notice of that accreditation or revocation to the Commonwealth Central Authority who will advise the Permanent Bureau of the Hague Conference on Private International Law of the terms of accreditation.

Part II Accreditation Criteria

Eligibility

5. The body must be an incorporated non profit body.
6. The body must not be, and must not be likely to be, a party to negotiations or an agreement for the establishment of adoption arrangements with overseas countries.
7. The body must give an undertaking that during any period of accreditation the body will not enter negotiations for the establishment of an adoption agreement with an overseas country.

The Body

8. The body must employ a principal officer with social science qualifications and experience in adoption, substitute care or family services to supervise the adoption arrangements undertaken by the body.
9. The body must be financially viable.
10. The body must employ professional staff with appropriate qualifications to undertake training, assessment and placement tasks.
11. The body must have accommodation available for its use that:
 - (a) is suitable for the conduct of assessment, interviews, training and support to adoption arrangements; and
 - (b) does not form part of, and is not adjacent to, accommodation that is used by an aid organisation or an organisation that represents adoptive parents.



Conduct of the Body

12. The body must comply with the practice that applies, in the State or Territory in which the body is seeking accreditation, relating to the approval or contracting of bodies to undertake arrangements with a view to the adoption of a child.
13. The body must comply with:
 - (a) the laws of the Commonwealth and the State or Territory in which it is seeking accreditation; and
 - (b) the requirements of the Convention.
14. The body must not be associated with, and must not be likely to be associated with, the collection and distribution of aid to an overseas country.
15. A body must have suitable facilities for the confidential storage of records, and must give an undertaking to maintain those records.
16. The body must give an undertaking that during any period of accreditation the body:
 - (a) will only undertake the functions approved at the time of accreditation; and
 - (b) will only offer adoption services in respect of countries specified in its accreditation; and
 - (c) will not destroy any records maintained by the body; and
 - (d) will not issue publications promoting adoption, or offer preparation courses for adoption applicants, unless the content of the publication or the course has been approved by the State Central Authority to which the body has applied for accreditation.
17. The body must give an undertaking that on its winding up it will lodge any records, that it has maintained during any period of accreditation, with the State Central Authority to which it has applied for accreditation.

Part III – Functions of an Accredited Body

18. A body may be accredited to undertake any of the following functions in relation to the adoption process:
 - (a) Initial Enquiries – respond to initial enquiries for intercountry adoption;
 - (b) Information Sessions – conduct regular information sessions to inform potential applicants;
 - (c) Expressions of Interest – receive and process expressions of interest;
 - (d) Applications – receive and process applications to adopt (Article 14);
 - (e) Assessment- undertake assessment of suitability (including relevant medical, referee and police reports, and preparation of the Home Study);
 - (f) Decisions to approve or not approve – determine the suitability of applicants;
 - (g) Forwarding of file – forward a report including all relevant information required to the country of origin (Article 15);
 - (h) Allocation of children – receive allocation of children, confirm suitability of match (Article 17b) and advise applicants;
 - (i) Supervision of placement – provide support and advice to applicants following placement;

- (j) Placement Breakdown – in case of placement breakdown prior to adoption orders being made, consult with the State Central Authority regarding appropriate arrangements, but the body is not to make decisions on alternative arrangements;
 - (a) Adoption Information – collect and preserve relevant information about the child and the applicants (Article 9a), and respond to requests for adoption information until the child attains the age of 18 years;
 - (b) Evaluation Reports – prepare general evaluation report for the State Central Authority (Article 9d);
 - (c) Post Adoption Services – provide a referral and support service post granting of the adoption order;
- Administrative arrangements – undertake approved administrative arrangements between already established programs.

Part IV – Revocation Criteria

Division 1 – Review and assessment of the body

- 19. A body must submit to the supervision of the State Central Authority that accredited the body, and must provide the State Central Authority with access to the records and reports of the body in accordance with the requirements of the State Central Authority.
- 20. The body must provide biannual reports to the State Central Authority as required in the accreditation of the body.
- 21. The accommodation at which the body performs its functions as an accredited body:
 - (a) must be suitable for the conduct of assessment, interviews, training and support to adoption arrangements; and
 - (b) must not form part of, or be adjacent to, accommodation that is used by an aid organisation or an organisation that represents adoptive parents.
- 22. Except in accordance with an arrangement between States and internal Territories, the functions approved in the accreditation must only be provided by the body within the State or internal Territory of the State Central Authority that accredits the body.
- 23. The body must comply with any undertakings given for the purpose of accreditation.
- 24. The body must continue to satisfy the criteria set out in Part II and any conditions set out in the instrument of accreditation.
- 25. A body must comply with, and must ensure that its staff members comply with, the code of conduct for bodies accredited to conduct adoption arrangements set out in Division 2.

Division 2 – Code of Conduct

[NOTE: This code exists to recognise and give effect to the right of the public to expect that accredited intercountry adoption bodies are of the highest integrity and competence and treat all clients fairly, reasonably and equitably and are accountable to the State Central Authority that accredited the body.]



Conflict of interest

26. A member of staff of an accredited body must not hold any financial or other interest, and must not give an undertaking, that could directly or indirectly compromise the performance of his or her functions. Conflict of interest must be assessed by taking into account, amongst other things, the likelihood that a member of staff possessing a particular interest could be influenced, or might appear to be influenced, in the performance of his or her responsibilities on a particular matter. A member of staff must notify the State Central Authority that accredited the body if a potential or actual conflict of interest arises.

Acceptance of gifts or benefits

27. An accredited body or member of staff must not accept a gift, donation or benefit if it could be seen by a client as intended or likely to cause the member to undertake his or her responsibilities in a particular way, or deviate from the proper course of action.

Personal and professional behaviour

28. A member of staff of an accredited body must perform any duties associated with his or her position diligently, impartially and conscientiously, to the best of his or her ability.

29. In the performance of duties, a member of staff of an accredited body:

- (a) must keep up to date with any changes in practice or procedure relating to intercountry adoption; and
- (b) must comply with the laws, and any relevant administrative requirements of the Commonwealth and the State or internal Territory of accreditation; and
- (c) must maintain and preserve record information systems in accordance with the requirements of the State Central Authority that accredited the body; and
- (d) must treat all clients with courtesy, sensitivity and in confidence; and
- (e) must not take any improper advantage of any information gained in the carrying out of his or her duties; and
- (f) must report to the State Central Authority that accredited the body any unethical behaviour or wrong doing by other members of staff of which he or she is aware.

Fairness and equity

30. The manner in which an accredited body deals with issues or clients must be consistent, prompt and fair. This includes:

- (a) dealing with matters in accordance with approved procedures; and
- (b) dealing with matters without discrimination on any grounds; and
- (a) providing appropriate review and appeal mechanisms.

31. If an accredited body proposes to exercise a discretionary power in relation to a particular case, the body must ensure that all relevant considerations are taken into account in regard to the particular merits of the case.

Public comment and the use of information

32. While staff members of an accredited body have the right to make public comment and to enter into public debate on political and social issues, the accredited body must refrain from public comment where that comment is sufficiently strong to undermine the accredited body, the State Central Authority that accredited the body or the Commonwealth Central Authority.
33. An accredited body must not disclose official information or documents acquired in the course of carrying out its functions as an accredited body unless the proper authority has been sought and given.