

CHAPTER 5 ADOPTION OF CHILDREN FROM QUEENSLAND

5.1 Overview of legislative and program developments

More than 50,000 people have been adopted in Queensland since 1917, including some who were adopted as adults. The *Adoption of Children Act 1964* provided for people up to 21 years of age to be adopted but it was amended in 1979 to reduce the maximum age at which a person could be adopted to 18 years.

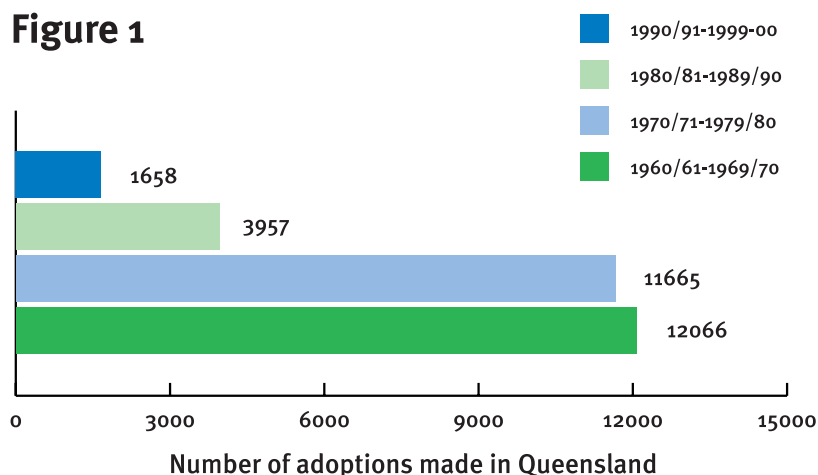
More than 12,000 people were adopted in Queensland in the 1960s but the number of children adopted each year since then has declined. As the number of children being adopted declined in the 1970s, there was an increase in the number of children with complex needs requiring adoption, including children with physical and/or intellectual disabilities or children with special needs regarding their cultural backgrounds.²² The number of children adopted by relatives also decreased significantly from the late 1970s.²³

In the 1980s, the Department operated a Special Needs Unit and a Be My Parent Program to provide services for children with special needs requiring adoption. The number of children with special needs requiring adoptive placements increased from 11 children in 1981-82 to 27 children in 1988-89.²⁴ However, the number of children with special needs requiring adoption declined in the 1990s; in 1990/91, 28 infants with special needs required an adoptive family and no infants with special needs required adoption in 1999-2000.²⁵

The *Adoption of Children Act 1964* was amended in 1991 to make it possible for:

- people adopted after June 1991 and birth parents who sign an adoption consent after June 1991 to receive identifying information about each other, once the adopted person turns 18;
- people adopted before June 1991, birth parents who signed an adoption consent before June 1991 and, in certain circumstances, eligible relatives of the adopted person or birth parent, to receive identifying information if an objection to the release of identifying information has not been lodged; and
- people adopted before June 1991 and birth parents who consented to the adoption of a child before June 1991 to lodge an objection to contact, or an objection to contact and to the release of information.

The number of adoption orders made in Queensland has declined each decade from 1960 (see Figure 1).



²² Report of Director, Department of Children's Services, 1976, 1977, 1978.

²³ Report of Director, Department of Children's Services, 1978.

²⁴ Annual Report, Department of Family Services, 1988-89

²⁵ Department of Families



5.2 The Department's Responsibilities

In providing support services to vulnerable children and families in Queensland, including adoption services, the Department must consider²⁶ :

- a child's right to know and be cared for by his/her parents;
- a child's right not to be separated from his/her parents against his/her will, except when competent authorities subject to judicial review determine separation is necessary for the best interests of the child, in accordance with applicable law;
- a child's right, if separated from his/her parents, to maintain contact with them, except if it is contrary to the child's interests;
- ensuring appropriate assistance is provided to support parents in meeting their parenting responsibilities and that appropriate facilities and services exist for the care of children;
- ensuring special protection and assistance is provided by the State to a child temporarily or permanently deprived of his/her family environment, or whose best interests cannot be secured by being allowed to remain in that environment;
- ensuring that when facilitating foster placement or adoption, due regard is given to providing continuity in the child's upbringing and to his/her ethnic, religious, cultural and linguistic background; and
- ensuring the best interests of the child are the paramount consideration in adoption.

Because Australia has ratified the UNCROC, the Department is responsible for ensuring services consistent with these requirements are provided to parents considering adoption for their child, children requiring adoption and people seeking assessment as prospective adoptive parents.

Adoption is a placement option that lies within a continuum of options including placement with parents, extended family, foster care etc. Permanency planning for children in the Department's care is a child protection issue currently being considered by the Department's child protection services.

Adoption is a permanent care option that is appropriate for some children in specific circumstances including:

- where a child cannot be cared for by his/her parents or within his/her family network; and
- where a child's parents choose adoption as the most appropriate option for their child after considering all other possible options for securing the child's long term care; or
- where the welfare and interests of a child cannot be better served by making another type of order that grants custody or guardianship of the child (i.e., a Family Court order for parenting, residency or contact).

5.3 Current arrangements

Services to children requiring an adoptive placement are currently provided under four programs:

- the General Children's Adoption program;
- the Special Needs Children's Adoption program;
- the Relative Children's Adoption program; and
- the Foreign Children's Adoption program.

Queensland children requiring adoption may include young infants and children, some of whom have specific health needs, an Indigenous or other ethnic or cultural background, or have particular family and social circumstances. People also sometimes seek to adopt step-children or children to whom they are related.

The General Children's Adoption program responds to the adoption needs of children in Queensland aged from birth to two years of age.

²⁶ United Nations Convention of the Rights of the Child

The Special Needs Children's Adoption program responds to the adoption needs of children in Queensland with physical and/or intellectual disabilities, serious medical conditions, children aged over two years, children from Indigenous backgrounds, children from different ethnic or cultural backgrounds, or children whose circumstances are such that they are declared to have special needs (e.g., a child whose older sibling has previously been adopted or a child who is subject to an order under the *Child Protection Act 1991*). Adoption of Indigenous children is further outlined in Chapter 6.

The Relative Children's Adoption program provides for children to be adopted by their step-parent or other relative, where making the adoption order would promote the child's interests and where the interests of the child would be better served by an adoption order than another type of order (e.g., a Family Court order for parental responsibility, residency or contact order). The Relative Children's Adoption program is further discussed in Chapter 7.

Discussion of issues relating to overseas children requiring adoption in Queensland is included in Chapter 8.

5.3.1 Responding to the placement needs of children in Queensland

While the interests of each child requiring adoption are paramount in the adoption process, the way the child's interests are responded to has varied on the basis of:

- the child's age and health;
- the child's Indigenous background or ethnic or cultural background;
- the child's family and social background; or
- whether an application has been made by a step-parent or relative to adopt the child.

The Special Needs Children's Adoption program has provided a more individualised response to meeting children's placement needs than that traditionally provided by the General Children's Adoption program. However, the distinction between the adoption needs of children requiring placements through the two programs are becoming less pronounced and differentiating on this basis is now less relevant.

In the late 1970s and the 1980s, the Department responded to the placement needs of a significant number of older children and children with serious medical conditions and/or disabilities but the number of these children requiring adoption has decreased in recent years. In 2000-01, only one child with specific medical/disability needs required adoption in Queensland.

Many children who required adoptive placements in recent years have had specific needs relating to complex family or social backgrounds or to their Indigenous or cultural backgrounds. Prospective adoptive parents assessed under the General Children's Adoption program possess a range of characteristics, skills and experiences and some are from Indigenous or specific cultural backgrounds. As a result, applicants on both the General Children's Adoption and Special Needs Children's Adoption Lists have been considered to determine the best possible placement for a child requiring adoption.

The Special Needs Children's Adoption program can respond to a child's placement needs more individually because it employs more inclusive applicant eligibility criteria and there is no requirement to assess people in chronological order. This removes barriers which may prevent suitable prospective adoptive parents from being assessed.

Although assessment requirements and standards are consistent for both the General Children's Adoption and Special Needs Children's Adoption programs, the assessment processes vary. The assessment of applicants seeking to adopt children with special needs is only commenced when:

- the particular needs of a child requiring an adoption are known or can be anticipated; and
- it appears that an individual or couple may have the capacity to parent the child.



5.4 Future arrangements

Only a small number of children required adoption in Queensland in recent years. Implementing a consistent process for matching families and children may enhance the services provided to all children in Queensland requiring adoption. The processes described in Chapter 10 make consistent provision for meeting the needs of children requiring adoption, while retaining the capacity for children's specific needs to be the central consideration in responding to a their placement needs and matching a suitable family with a child.

According to the *Adoption of Children Act 1964*, the UNCROC and the Hague Convention, adoption can be considered as an option to provide a child with a permanent legal family or for securing a child's interests only after all other care options have been considered²⁷.

The interests of each child requiring adoption, or whose interests might be best met by adoption, must be paramount. However, the interests of children with specific needs relating to their health, Indigenous, ethnic or cultural background, or family and social circumstances require special protection.

Should Queensland legislation require all options available to meet a child's placement needs to be considered prior to an adoption order being made?

Should a consistent process be used to ensure the needs of any child in Queensland requiring adoption are the central consideration in matching a child with a suitable family or in making an adoption order in favour of a specific person?

²⁷ In accordance with the *Adoption of Children Act 1964* section 12 (5) an adoption order shall be made in favour of a child's relative or step-parent only if the child's interests would be better served by adoption than by another order granting guardianship or custody.