

CHAPTER 12 POST - ADOPTION SERVICES

12.1 Current law and practice

The *Adoption of Children Act 1964* makes no provision for ongoing support services for adopted children, birth families and adoptive families once an adoption order is made. Traditionally, the focus of adoption services has concentrated on the services leading up to an adoption order being made.

The responsibility to ensure that adoption policy and practice safeguards the interests of adopted persons throughout their lives - not just in infancy or at the time an adoption order is made - is now recognised and has resulted in adopted persons' interests being safeguarded through policies and practices, including:

- enhanced information and support services for parents considering adoption for their child;
- requiring adoptive parents to make a commitment to inform their child of his/her adopted status;
- requiring adoptive parents to assist children to develop or maintain their Indigenous or other cultural background;
- ensuring prospective adoptive parents have the capacity to assist an adopted child's psychological adjustment to his/her adopted status as well as the capacity to meet the child's physical, social and recreational needs etc.;
- providing enhanced information, education and assessment services to prospective adoptive parents;
- involving children's birth fathers in adoption decisions wherever possible;
- obtaining and retaining as much information as possible about the circumstances of a child's birth and adoption, including family history, and social and medical information, for the adopted person's future reference (if desired); and
- facilitating the exchange of non-identifying information between a child's birth and adoptive families prior to an adopted child turning 18.

Although the Department has no specific statutory responsibility to provide ongoing support to people affected by adoption or those seeking information, support or counselling, people regularly contact the Department for these services.

12.1.1 Provision of identifying information

Part 4A of the Act provides for the release of identifying information to adopted persons and birth parents once an adopted person turns 18 provided - in relation to adoptions prior to 1991 - no objection to this has been lodged by the adopted person or the birth parent. The Act also enables an 'objection to contact' to be lodged by the adopted person or a birth parent where the adoption occurred prior to 1991.

From 1990-91 to 2000-01, identifying information was provided to 13,122 people in Queensland, comprising 9,417 adopted people, 3,221 birth mothers, 25 birth fathers and 459 eligible relatives of adopted persons or birth parents.

As at 30 June 2001, 2,963 objections to the release of identifying information were lodged in Queensland, comprising objections lodged by 1,783 adopted people, 1,173 birth mothers and seven birth fathers. There were also 258 objections to contact (only) lodged, comprising objections lodged by 181 adopted people and 77 birth mothers. Of the objections lodged at 30 June 2001, 71.5 per cent were lodged between September 1990 and 30 June 1991.



Section 39E of the Act enables the Chief Executive to approve counsellors to provide post-adoption services for the purpose of this Part of the Act. A number of private counsellors were trained in 1991 and people who contact the Department regarding the release of information and contact can be referred to these counsellors. However, counsellors are paid directly by the client and are not located in many parts of the State.

The Department does not fund counselling services. A small amount of operating funding is provided to two community organisations to provide limited, voluntary support services. The Commonwealth Government, through the Aboriginal and Torres Strait Islander Commission, provides funding to Link Up (Qld) to provide services, support and assistance to Aboriginal people who have experienced enforced separation from their families and communities. Link Up provides support services to Indigenous people affected by adoption in Queensland.

The Department currently has no formal role in providing services to people affected by adoption after an adoption order has been made, except for the statutory requirements to provide identifying information or administer objections, in accordance with the requirements of Part 4A of the Act.

The Government wishes to retain its current policy relating to the provision of identifying information and the capacity for people to object to contact or to object to contact and the provision of identifying information regarding adoption orders made prior to June 1991, so these issues are not included in the Review.

12.1.2 Provision of services to birth parents

The Department provides pre-consent counselling to parents considering adoption for their child, and counselling and support to birth parents during the revocation period. No formal ongoing support or counselling are provided to birth parents once the adoption order has been made although, in practice, short-term support or counselling is provided immediately after an order is made or at a future time if requested by birth parents. Birth parents requiring ongoing services are referred to private counsellors or agencies.

12.1.3 Provision of services to adoptive families and adopted children

The Department's Adoption Services Unit provides post-placement support for adoptive families with whom a child has been placed on an interim order or where a period of supervision applies. For discussion of the purpose of interim orders, see 11.5 in this consultation paper.

The Department reviews a child's placement with his/her prospective adoptive parents during the interim or supervisory period if the placement does not progress satisfactorily or if there is a change in the prospective adoptive parents' circumstances that affects their eligibility or capacity to care for the child. The Adoption Services Unit may arrange for an Adoption Contract Worker to assist the family or may facilitate a referral to an appropriate welfare, health or psychiatric service if required.

On rare occasions, a child's placement with his/her prospective adoptive parents breaks down during the interim or supervisory period and the child cannot remain in their care. This may result from the prospective adoptive parents' request for the child to be placed elsewhere or from a decision by the Department that it is not in the child's best interests to remain in the placement.

Under the Hague Convention, the Department, as the State Central Authority, is obliged to consult with the central authority of the child's country of origin should continued placement with the adoptive parents not be in the child's best interests. The Department has similar obligations under bilateral agreements with some overseas adoption authorities. The Department is obliged to remove the child from the care of the adoptive/prospective adoptive parents and to arrange a new placement for the child with a view to adoption; to arrange alternative long term care; or, as a last resort, to arrange to return the child to his/her country of origin.⁸⁶

The Department also provides post-adoption support and counselling should adoptive parents request assistance after an adoption order has been made. Adoptive parents are encouraged to contact the Department about issues arising after an adoption order has been made, but they are not obliged to do so. If assistance is required, departmental staff or an Adoption Contract Worker may support the family. Adoptive parents may also be referred to an appropriate welfare, health or psychiatric service if required. If there are child protection concerns, intervention by the Department under the *Child Protection Act 1999* may be necessary, as is the case for any family.

Under bilateral agreements with some countries, the Department is obliged to inform the adoption authority in the child's country of origin if the adoptive placement is disrupted after an adoption order has been made.

12.2 Role of the State

The Review's Terms of Reference specifically refer to identifying and developing appropriate responses to promote the welfare and best interests of adopted people throughout their lives. Adoption legislation, policy and practice need to be considered to provide for the ongoing information and support needs of adopted persons.

Many adopted children and adults, adoptive parents, birth parents and other members of birth and adoptive families may need information and support arising from the adoption experience at various times in their lives.

Recognising the particular support needs of some adopted children and adults, birth families and adoptive families raises the question of whether the State has a particular responsibility to assist them and their families. Because adoption involves the State in 're-making' families, there is an argument that the State therefore has an ongoing responsibility to support and assist persons affected by adoption.

On the other hand, it can be argued that, because adoption legally establishes adoptive families as families no different from others in the community, the needs of adoptive families requiring support should be met by the same support services available to other families in the community.

Does the State have an ongoing responsibility to persons affected by adoption?

Does the State have a responsibility to provide services, or access to services, to assist people affected by adoption?

12.3 Services in relation to adoption plans

Open adoption practice and the development of legislative provisions to support it in the future are discussed in Chapter 4. If a framework supporting open adoption practice is included in future legislation, an increased level of service will be required after an adoption has been made.

Consideration will need to be given to:

- services required to facilitate the positive and responsible participation of adopted children, adoptive parents and birth parents and/or family members in open adoption arrangements;
- resources required for the negotiation, implementation and ongoing support of open adoption plans and practice;
- resources required to mediate changes to plans in response to changing needs or issues arising after an adoption order has been made;



- collection of data to provide evidence for the evaluation, review and ongoing improvement of open adoption arrangements; and
- whether services to support open adoption arrangements would be best provided by the Department or by an accredited agency.

Would adopted children, adoptive parents and birth parents need to have access to appropriately qualified people to support their participation in an adoption plan after an adoption order has been made?

Would these services be best provided by:

- *the Department;*
- *an accredited agency;*
- *a number of funded non-government community organisations; and/or*
- *other?*

12.4 Responses and services related to adoption disruption

Family breakdown sometimes occurs where children are biologically related to their parents and it is unrealistic to expect breakdown will never occur in families formed by adoption. In fact, the task required of adoptive parents – to meet the specific and often complex needs of children requiring adoptive placements - may increase the stress experienced by the family at different stages. However, it is reasonable to expect that the Department’s intervention (i.e., in selection and assessment processes) provides safeguards for children requiring adoption which minimises the likelihood of the child’s placement being disrupted or family relationships breaking down post-adoption.

The trauma and distress experienced when family relationships break down is common to all children, but such breakdown includes additional issues for adopted children. Adoption disruption is very harmful for children because of the losses experienced prior to adoption (i.e., loss of birth identity, of opportunity to be nurtured by birth parents/family, to grow up within biological family and/or country of origin) and the future uncertainty it creates.

Adoptive parents also experience an intense sense of loss when an adoption is not successful. The sense of guilt experienced by adoptive parents who were entrusted in law with responsibility for the adopted child as if the child had been born to them, is also extreme. Adoptive parents may find it difficult to seek support from the friends and family who not long before were being asked to accept and support the couple’s adoption plan.⁸⁷

The high expectations and positive feelings of prospective adoptive parents and adoption practitioners at the time a child’s adoption is being arranged can make it difficult for families to recontact the same adoption services for assistance when the family experiences difficulty.

Children whose adoptive placements are disrupted can often be integrated into a new family and assisted to come to terms with their experience without permanent damage to their psycho-emotional development.⁸⁸ However, this does not mitigate the need to do as much as possible to minimise disruption and harm to children and families during the experience of disruption.

Present legislation provides no specific requirement for the Department to provide services where an adoption is disrupted or is unsuccessful.

⁸⁷ Barth and Berry, 1988

⁸⁸ T. Festinger, *Necessary risk. A study of adoptions and disrupted adoptive placements.* Child Welfare League of America, Inc. United States of America, 1986

If it is accepted that the Department has a responsibility to promote the welfare and interest of adopted people throughout their lives, then future policy and legislation must ensure that:

- the needs of children are independently considered and adequately safeguarded in placement arrangements following an adoption disruption;
- future placement arrangements are appropriately authorised, supported and monitored;
- adequate support services are available to adoptive parents where placement difficulties arise and, in extreme situations, after a child's adoptive placement has disrupted;
- overseas adoption authorities are notified, in accordance with relevant international conventions and agreements, of cases where a child's adoptive placement is disrupted;
- the view expressed by birth parents at the time the adoption order was made are considered in future arrangements; and
- the Department is advised of placement breakdowns to enable the above to occur and to ensure the needs and rights of children and birth families to information about each other (where such has been negotiated) can be met.

The need for adoption policy and practice to be informed by the experiences of adopted persons, including the outcome of adoption decisions and the experiences of people affected by adoption disruption, is discussed in Chapter 13.

12.5 Post-adoption services for birth parents

As outlined above, the Department currently provides only limited support for birth parents after their children are adopted. Birth parents requiring ongoing support and counselling are referred to private counsellors or community services. Access to these services by birth parents depends largely on their capacity to pay and/or their proximity to community-based agencies with specialised counselling services. The Department does not fund services to meet the specific needs of birth parents.

The Post-Adoption Resource Centre (PARC) was established to assist people affected by adoption in New South Wales after legislation was introduced in 1990 to enable adopted persons and birth parents to obtain identifying information. One of PARC's functions is to provide post-adoption counselling and support to birth parents and to research post-adoption issues.

In 1999, the New South Wales Parliament established an inquiry into adoption practices from 1950 to 1998 by the Standing Committee on Social Issues. The Inquiry's findings indicated there was a substantial need for current and future counselling and support for birth parents affected by adoption. The Standing Committee made a range of recommendations including increased funding to PARC and establishing a program of specific project grants for parent support groups for counselling, training, research and writing on the impact of adoption.

12.6 Services relating to the provision of information and contact

The Department of Families provides only limited support to persons seeking identifying information and contact under Part 4A of the *Adoption of Children Act 1964*. Persons requiring support and counselling are referred to private counsellors. Training for counselling people affected by adoption was provided throughout Queensland when the 1991 amendments were made, however, no further training or accreditation processes have been implemented since then.

Two voluntary organisations receive a small amount of funding from the Department to provide support and/or services to people making contact with birth relatives, but they are not funded to provide professional counselling.



This means few counselling services are available for people considering obtaining identifying information or who wish to obtain identifying information but cannot do so because an objection is lodged. Apart from services provided by Link-Up (Queensland) Aboriginal Corporation, which is funded by the Aboriginal and Torres Strait Islander Commission, no professional services are available to help adopted people and birth families plan for and/or make contact with each other.

No data about the number of people making contact each year as a result of the provision of identifying information are available because the Department is required to provide identifying information only in certain circumstances and is not involved in supporting people seeking to make contact with birth relatives.

However, it is clear from the number of people contacting the Department about post-adoption issues, that there is a significant level of unmet need in the community. From January 1999 to December 2000, some 18,676 telephone and interview contacts were received from people regarding post-adoption issues and the Department received 957 applications for information in 1999-00.

Should legislation require support services be available to:

- *adopted children and adoptive parents after an adoption order has been made and prior to the adopted child turning 18;*
- *to birth parents and member of birth families after and adoption order has been made and prior to the adopted child turning 18;*
- *adopted people and birth parents who receive identifying information or who cannot receive identifying information because an objection has been lodged; or*
- *people seeking to make contact with birth relatives.*

12.7 Financial support for adoption placements

To ensure children with particular needs (e.g., an intellectual disability or a significant physical, emotional or sensory disability) can be matched with prospective adoptive parents who have the qualities required to meet those needs, it may be necessary to provide the child's adoptive parents with a level of financial support.

Under the *Adoption of Children Act 1964*, financial assistance can be provided to adoptive parents only with the specific approval of Parliament, a requirement that means financial assistance is rarely given. However, consideration of the ongoing cost of meeting the specific needs of some children may place a barrier to their adoption by persons who in every other way have the capacity to care for the child.

Most other Australian jurisdictions enable the adoption authority to provide financial assistance to adoptive parents in these circumstances.

Should legislation enable the Chief Executive to provide financial assistance to adoptive parents?

In what circumstances should financial assistance be provided?