



Victorian Law Reform Commission
By email: law.reform@lawreform.vic.gov.au

Friday 16 September 2016

Adopt Change Submission to the Victorian *Adoption Act 1984* Review

To Whom It May Concern,

Please accept this submission to the Victorian Adoption Act 1984 review on behalf of Adopt Change.

Adopt Change believes that every child deserves a family, and we embrace adoption as a positive way of forming a permanent loving family for vulnerable children who are unable to remain with their birth families or kin.

The mission of Adopt Change is to raise community awareness, encourage reform and empower all Australians to ensure that all children have a permanent loving family.

In partnership with the community, sector and Government, Adopt Change primarily aims to:

1. **Raise community awareness and education** of the risks faced by vulnerable children and the issues surrounding adoption;
2. **Promote reform** of Australia's adoption laws and practises to facilitate an inclusive and supportive community;
3. **Conduct research** to contribute to the understanding of adoption and permanency; and
4. **Assist** people seeking to adopt or arrange for the adoption of those children, and **provide support** throughout all stages of the adoption process.

Adopt Change believes that adoption should be a genuine permanency option for vulnerable children, when it is not safe or possible for them to remain with their birth families or kin. Adopt Change advocates for all Australian child protection and adoption processes at both state and federal levels to meet the needs of vulnerable children, and for decisions to be made in a timely manner.

Adopt Change also aims to work with Federal government and other organisations to foster relationships with other countries, to enhance the capacity of families and communities to raise their children safely, and where this is not possible, to ensure that safe and fair intercountry adoption is available and preferable over long term institutionalisation.

Finally, Adopt Change is of the firm belief that adoption legislation and policy should be grounded in an evidence base, and would encourage the Victorian Government to consider this throughout the review process. We thank you for the opportunity to make a submission to this review. Please do not hesitate to contact us at enquiries@adoptchange.org.au, should you have any queries about our submission.

Yours sincerely,

Estelle Jones
On behalf of Adopt Change

The best interests and rights of the child

1/ Should the Adoption Act use consistent terminology to guide decision makers in a decision relating to adoption? If not, in what circumstances should terminology other than the best interests of the child be used?

Adopt Change agrees with point 5.19 of the discussion paper that the consistent terminology “best interests of the child” be used throughout the *Adoption Act* and *Adoption Regulations* to ensure clarity around the application of the UN Convention on the Rights of the Child.

2/ Should the Adoption Act provide guidance about how to determine what is in a child’s best interests?

Adopt Change agrees that it is appropriate for the Act to provide guidance on how best to determine what is in a child’s best interests. As the concept of ‘best interests’ can be highly subjective, the inclusion of guidelines in the Adoption Act or Adoption Regulations would provide a consistent framework within which decision makers should consider a child’s best interests, as is the case in the NSW legislation and as suggested in point 5.36 of the discussion paper.

Of primary consideration should be the safety and wellbeing of the child.

12/ Are there any other issues within the terms of reference that should be considered in determining the best interests of the child and balancing the rights and interests of other people with an interest in the adoption? If yes, what are they?

Adopt Change fundamentally supports the practise of open adoption where it is safe and possible. As has been evidenced in multiple consultations with people who experienced past closed adoption practises, access to personal history is vital to a person’s identity formation¹. Further, it is appropriate to have a mechanism allowing access to personal history, in particular medical records for any future family members of the adopted person.

13/ In some states and territories, children aged 12 and over consent to an adoption. Should this be required in Victoria? If not, are there any changes that should be made to the Adoption Act to ensure it provides appropriately for the views and wishes of the child?

Seeking the consent and input from children on decisions that affect them is in line with Article 12 the United Nations Convention on the Rights of the Child, as highlighted in point 5.108 of the discussion paper. Taking into account the concern raised about the omission of this provision in most Australian state-level legislation [5.110], it is appropriate to update the Victorian Adoption Act to include a requirement for consultation and consent of children aged 12 and over. This would further contribute to the harmonisation of adoption legislation between the states of Australia.

Eligibility, suitability, contemporary attitudes and the law

24/ Single people can adopt a child only if there are ‘special circumstances in relation to the child’ which make the adoption ‘desirable’.

(a) Is this requirement consistent with the best interests of the child?

In today’s modern society, there are a variety of situations in which a child is raised by a single parent. As highlighted in the discussion paper, there is an acknowledgement that “single people are able to provide secure and loving environments for children” [7.54], and should therefore be eligible for assessment within the scope of the *Adoption Act* where adoption is considered to be in the child’s best interests.

¹ See <http://forgottenaustralianshistory.gov.au/apology.html>

Further, Adopt Change sees no basis for the inconsistency between the *Adoption Act* and the *Children, Youth and Families Act* with respect to eligibility criteria for prospective parents or carers.

(b) Should this requirement be amended? If yes, what criteria should apply to adoptions by single people?

Adopt Change is of the view that this requirement should be amended to allow for single people to adopt, given the evidence base indicating that secure attachment and permanency enables a child to thrive. In addition, adoption legislation in New South Wales, Western Australia and Australian Capital Territory allows for single people to adopt, with the state government of Queensland indicating in August 2016 the intention to remove discrimination in the *Adoption Act 2009* by allowing single people, same sex couples and those undergoing fertility treatment to enter the adoption application process².

With Victoria having recently allowed for same sex couples to adopt, it is appropriate for the legislation to remove all discrimination to prospective adopters, as has recently been enacted in Queensland³. This would also aid in the harmonisation of adoption legislation in Australia, which is vital to a just system that meets the needs of vulnerable children.

Adopt Change suggests that the criteria for prospective single person adopters could be based on that of other state governments where single people are eligible to adopt, and remain consistent with criteria set out for single person carers within the *Children, Youth and Families Act*.

27/ Are the suitability criteria in the Adoption Regulations appropriate? Should any criteria be added, removed or changed?

As discussed previously, Adopt Change believes it is appropriate to remove all discrimination against prospective adoption applicants and broaden the criteria to include single people and same sex couples. These groups should not be excluded on the basis of their sexuality or marital status and should have the same opportunity to submit an application and be assessed against the criteria set out in the *Adoption Act* and *Adoption Regulations*.

28/ Should the requirements applicants must satisfy for approval to adopt be set out more clearly in the Adoption Act and/or Adoption Regulations? If yes, what changes are required to make this clearer?

Requirements should be more explicitly outlined in the *Adoption Act* and *Adoption Regulations* so that it is clear to both prospective applicants and case workers what the requirements for approval are. This could represent a step towards a more streamlined and transparent adoption process that allows permanency decisions for children to be made in a more efficient manner.

29/ Should the steps in the assessment process be set out more clearly in the Adoption Act and/or Adoption Regulations? If yes, what changes are required to make the assessment process clearer?

As highlighted in Question 28, Adopt Change believes that clarity within the regulations and legislation around the assessment process would enable case workers to make timely decisions around permanency for children, as well as providing greater transparency to applicants.

30/ Could any other improvements be made to the assessment process? If yes, what improvements could be made?

² <https://www.communities.qld.gov.au/childsafety/adoption>

³ <http://www.parliament.qld.gov.au/work-of-committees/committees/HCDSDVFVPC/inquiries/current-inquiries/AdoptionandOLAB2016>

Adopt Change believes that greater transparency for applicants would benefit those involved in the process. Adopt Change suggests investigating the viability of implementing an online portal whereby applicants are able to keep updated on timeframes, submit documentation, and remain informed on the status of their application.

Information and identity

39/ How should an adopted person's identity be reflected on their birth certificate?

Adopt Change acknowledges the innately legal purpose that a birth certificate serves, but would also like to stress the importance of the birth certificate in a person's establishment of identity. Adopt Change supports the representation of both a child's birth origins, as well as their legal adoptive status, on the birth certificate. This would enable the adopted person to remain connected with their personal history, whilst reflecting their legal familial status accurately. Feedback from our community echoes the sentiment outlined in 8.90 that "the birth certificate should not differ in format or content...from the birth certificate of a natural born child" in order to avoid unwanted disclosure of the personal circumstances of the adopted person.

Adopt Change supports the suggestion outlined in 8.111 of an addendum to the adoptive birth certificate, as well as the suggestion outlined in 8.101 of an 'integrated birth certificate'. Adopt Change would encourage decision makers to conduct extensive consultation with adoptive people and their families to ascertain the most appropriate avenue to pursue.

42/ Is changing a child's given names consistent with the best interests of the child?

Adopt Change agrees that a child's name should be preserved in keeping with Article 8 of the United Nations Convention on the Rights of the Child outlining a child's right to identity preservation. Adopt Change believes that, where it is deemed in a child's best interests, it is appropriate to change the child's surname to that of their adoptive family, and that the child's Christian name should only be changed in extenuating circumstances, and at the decision of the County Court.

48/ Should there be increased requirements in the Adoption Act to provide post-adoption support?

Comprehensive support for all parties throughout the adoption process is essential for ensuring the best possible outcomes. It is the fuel that enables children and parents to have successful transitions through the adoption journey's many and varied challenges and go on to lead healthy, productive lives.⁴

Adopt Change has proposed the establishment of a national Centre of Excellence in Pre- and Post-Adoptive care. The resources produced and supplied by the Centre of Excellence should be made available to all parties to the adoption: the child, the birth family and the adoptive family. Whilst information and resources are lacking, particularly in the post-adoption space, Adopt Change does not believe that this should be mandated for families, but that support should be made readily available as required.

(a) Who should be responsible for providing this support?

Governments at the Federal and State levels should work harmoniously to provide post-adoption support within a national framework.

(b) What type of post-adoption support should be provided, and in what circumstances?

⁴ See Adopt Change's *Proposal for an Australian Centre of Excellence* (2013).

Counselling and education for all parties should be readily available. Furthermore, the opportunity to participate in research in order for future development of policy and practise in Australia.

(c) Who should be eligible for it?

All parties to the adoption process – the child, birth family and adoptive family – should be eligible to receive services at any time along the adoption journey.



PROPOSAL FOR AN AUSTRALIAN CENTRE OF EXCELLENCE

Please consider this letter our initial set of suggestions for the creation of an Australian Centre of Excellence for adoption support services.

Comprehensive support for all parties throughout the adoption process is essential for ensuring the best possible outcomes. It is the fuel that enables children and parents to have successful transitions through the adoption journey's many and varied challenges and go on to lead healthy, productive lives.

We believe that appropriate counseling, education, and support for people touched by adoption in Australia has historically been lacking. We hold that this shortcoming was a contributing factor to the development of the negative environment around adoption which was chronicled in the 2005 Bishop enquiry and which, we believe, still has an impact today. The report called out a "general lack of support for adoption – both local and intercountry" and noted that the lack of support "ranged from indifference to hostility" among the agencies responsible for administering adoption. Connected to these attitudes, the report found, were under-resourced departments, long queues, too few adoptions overall, and a damaging lack of involvement by the Commonwealth in the process of overseas adoption.¹

Nine years later, adoptive parents and children still face many of the same challenges they did in 2005, including in the realm of support services. Government funding for these services is not consistent across states, and so the level provided is uneven.² The challenges bear out in negative experiences and outcomes: Based on their in-field experience, experts and practitioners with whom we interact on a regular basis have reported that, among other issues, families are not adequately prepared for the process of fostering long-term relationships with birth parents in an open adoption; that prospective parents are not educated on the different skills required for short-term versus long-term care before adopting; that there is no provision of extra post-adoption support funding for high needs children (children who have undergone emotional trauma such as from abandonment or abuse).³ These reports should be confirmed as representative of a broader set of experiences, but it is clear that such situations result in unnecessary suffering by children and families, and sometimes may even lead to the complete breakdown of the family unit.

To ensure that history does not repeat itself, and to effect positive outcomes going forward, we propose the creation of a central administrative body for adoption support services. This Centre of Excellence will cover training and accreditation of adoption professionals; education for adoptive parents; physical and mental health services for children and families; and mediation and support groups for adoptive families, including relinquishing parents. It must cover the entire adoption process to ensure a unified, holistic approach to adoption.

¹ Australia House of Representatives, "Overseas Adoption in Australia," 2005

² Expert/practitioner interviews

³ Expert/practitioner interviews.

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Context: Demonstrating the need for holistic support for adoptive families

The following text is courtesy of Dr. Karen Purvis, a leading expert in child development

Trauma induced at any stage of life dramatically alters long-term outcomes, however with informed, committed, and specially trained caregivers, deep healing can also occur at any age. Children who are separated from their birth families come under this category of trauma. Interventions for harmed children will require the best and most current evidence-based practices and scientific insights in order to bring hope and healing to vulnerable children and youth who have come from the “hard places.” This will require a comprehensive approach, holistic in nature, and collaborative, addressing issues and needs across services and domains.

Mounting evidence about the impact of trauma on development began to accumulate in the mid 1990s when US researchers conducted a large-scale, retrospective study with 18,000 adults. Appropriately named ACEs, for Adult Childhood Experiences, the goal of the study was to explore the connections between childhood traumas and adult outcomes. Data analyses revealed dozens of powerful correlations between early abuse, neglect and trauma with adult physical health, emotional wellbeing, relationship capacity and global functioning. Analyses also revealed that the more ACEs a child experienced, the more damaging was the physical, emotional and relational impact.

Adverse childhood experiences were correlated with adults’ physical health problems ranging from cancer, immune failure, heart disease, stroke, premature death and much more. In addition strong correlations were found between ACEs and social-emotional outcomes later in life including problems such as teen pregnancy, drug use, addictions and even mental hospitalization and incarcerations.

While the ACEs provided staggering evidence of the connection between childhood traumatic events and adult outcomes, causes for these correlations were only partly available. Data from the US in 2008 documents a lifetime cost of abuse for that year alone at \$121 billion.

In the twenty years that followed the ACEs Study, neuroscientists, geneticists, and other scientist have searched for understanding of the mechanisms that underlie these sobering findings. Scientists now understand that trauma induces dramatic alterations in the BRAIN, BODY, BIOLOGY, and BELIEFS of children who suffer harm. Interventions will have to address these complex issues with knowledge and insight of the pervasive impact of trauma.

Changes in the Brain

For example, following abuse, neglect, or trauma, regions of the brain that are devoted to detection of danger become chronically hyper-activated, causing troubling behaviors that are associated with fight, flight, or freeze. In addition, it is now known that the fibers connecting brain hemispheres, the corpus callosum, are dramatically altered by aversive childhood experiences, creating problems in cognitive and emotional processing and contributing to behavioral failures in many areas.

Changes in the Body

Scientist now understand that trauma dramatically alters the body in many notable ways. For example, children coming from “the hard places” are far more subject to behavioral problems when they are hungry or tired. In addition while one in 20 unharmed children have a sensory processing disorder (SPD), the vast majority of traumatized children are vulnerable to challenges with SPD, frequently overreacting to sounds, smells and sights.

Changes in the Biology

Possibly the most sobering research in recent years confirmed that early experiences of harm actually alter the expression of the DNA. For example, the process of methylation, whereby the body cleanses itself, is damaged by early abuse, creating physical and behavioral challenges in children due to the buildup of toxins in their bodies. Recent research has also documented alterations an expression of telomeres, which are stretches of DNA at the ends of the chromosomes. Shortening of telomeres is caused by trauma, and predicts the shortening of life expectancy. Additionally, changes in the serotonin transporter system and the expression of dopamine system, set wounded children firmly in the path of harm due to their inextricable behaviors that are frequently misunderstood by parents and other adults.

Changes in Belief Systems

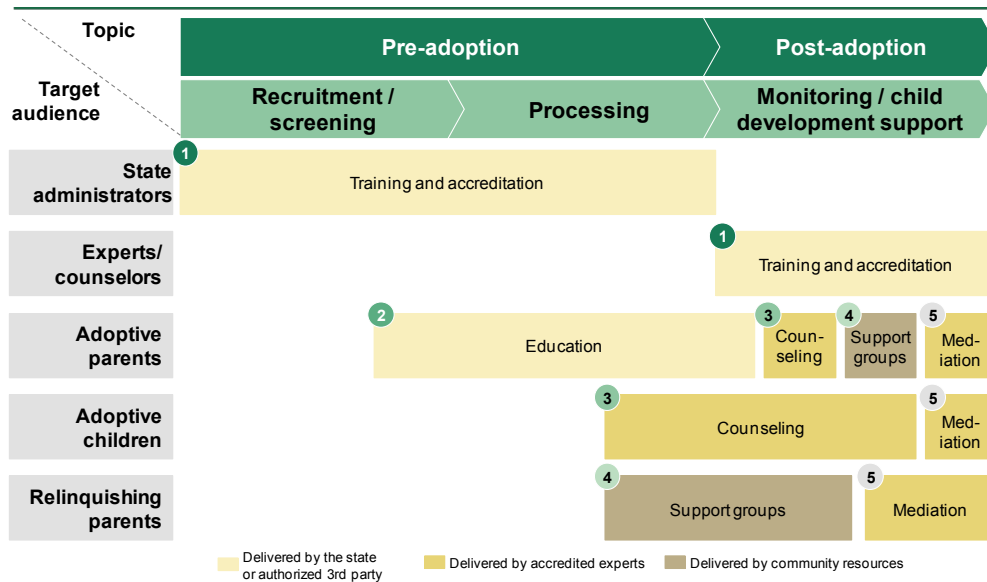
Tragically, children from hard places have dramatically altered belief systems. For example a child naturally *runs away from danger* and in times of threat *runs to their parent* for safety and comfort. However for the child who has been abused by their parent, the source of their terror is also the source of their comfort, making learning to trust, to connect, and to attach, a significant challenge in their future relationships. For some of these children, learning to trust others may become a lifetime journey and requires caregivers who understand how to bridge the trauma and fear to create healing connections.

Alterations in the Brain, the Body, the Biology, and the Beliefs compound to evoke dramatic and puzzling changes in Behavior, making it imperative that caregivers and others who work with these children have full understanding of the impact of trauma. Trauma-informed care must be a goal in the care of all children. Trauma-informed care must provide in-depth training for caregivers in recognizing and responding appropriately to the complex needs and behaviors of these children.

Proposed Centre of Excellence: Services

We believe that a Centre of Excellence, one whose foundation is laid on the theories of trauma-informed care and Trust Based Relational Intervention (TBRI), is a critically needed component of the adoption framework in Australia. The Centre of Excellence should provide critically needed services both pre- and post-adoption, directed toward all the key adoption stakeholders: adoptive parents, children, relinquishing parents, and those who support them. It is crucial that the services extend through the entire adoption process and past the "official" process to be available indefinitely, to ensure that families' needs are met. We provide a high-level overview of these suggested services below.

**Overview of recommended Centre of Excellence support areas
pre- and post-adoption**



1

Training and accreditation:

- Training and accreditation for state administrators focused on effective screening of foster/adoptive parents to ensure successful outcomes for children and families. Administrators also need training to manage adoption processing: both tactical training to expedite the process, and training in giving ongoing support to the parties to adoption during wait times that sometimes stretch for long periods
- Training and accreditation for all professionals working with children and families, including social workers, case workers, psychiatrists, pediatricians, etc. These professionals will need to be trained in TBRI methodologies, and be specialists within their fields who understand the specific needs of adoptive children and families (e.g., the impact of trauma).

2

Education:

- Education services focusing on adoptive parents, starting in the screening process and extending through home placement. The focus of this training should be a) to ensure they are aware of and adequately prepared for the intrinsic challenges associated with adoption b) to ensure they are trained in techniques such as Trust Based Relational Intervention (TBRI) developed by Dr. Karyn Purvis and c) to set up a network of support with a group of individuals (state administrators and counseling professionals) who will be a consistent presence in the adoption process on an ongoing basis.

3

Counseling:

- The COE must oversee a comprehensive set of support services directed at adoptive children (labeled above as "Counseling," for simplicity). These services should encompass those provided by occupational therapists, nutritionists, counselors, physicians, psychologists, and other specialists. These services may be delivered by contracted private practitioners, but these professionals should

be certified by the government bodies overseeing the COE as qualified to work with the adoption authorities and adoptive families.

- Specialized counseling services should extend to adoptive parents as well, likewise provided by professionals who are specialists with regard to adoption

4 Support Groups:

- The Centre of Excellence should facilitate the provision of support-group services to adoptive parents, relinquishing parents, and adopted children. This will include support of cultural affiliation for Australian parents of children adopted from foreign countries, and acclimatization for adoptive children. Potentially, this could be a service provided at the community level, but supported by the COE and state adoption authorities.

5 Mediation:

- The COE should manage a set of mediation-based services offered to relinquishing parents and adoptive parents and children, to help families navigate the logistical and emotional challenges related to open adoption.

Research and data analysis: To complement and ensure the success of the above services, we propose that each Centre of Excellence contain a Research & Data department in charge of documenting activities and outcomes. This ongoing research, data collection, and data analysis are critical to 1) measuring the progress of both the Centres of Excellence themselves and the broader effort to improve adoption practices across Australia, 2) Monitoring the ongoing needs of the adoption community and maintaining relevant models of support to families, and 3) Creating accountability for the effectiveness of services being provided.

Service delivery model

We envision a model in which a federally managed institution in NSW may provide leadership to state agencies to individually execute the Centre of Excellence model. Such an institution, potentially managed in conjunction with a University, would be ideally situated to support consistent delivery of services across Australia by standardizing procedures and training, and in the process to facilitate the harmonization of these currently disparate state adoption systems. It could serve as a leader not only within Australia but in the region and even globally. At the same time, we understand that the needs of individual communities across Australia vary with respect to adoption, based on cultural background and norms, family income levels, adoption history, and the state-instituted rules within which they currently operate. A federal-plus-state model would allow each set of state adoption authorities the flexibility to meet the needs of the communities they serve while setting a standard for overall excellence.

The above represents one viable model for the Centre of Excellence. To confirm the best model will require further study, including an analysis of costs of various approaches. This will entail answering key questions such as:

- What are the start-up costs needed to build the COE (and if a federal-plus-state model is chosen, to link it to the state authorities?)
- What will the demand for these services be? Which ought to be mandatory, which optional for authorities and for families?

- For a given service, what will the optimal service levels to parents and children be? What is the right frequency and depth of interaction between the adoption authorities/licensed experts and families of adoption? Through what methods (in-home visits vs. at-office appointments, etc.) will the services be provided?
- Given demand and service levels, how many staff will be required within the central COE offices and as liaisons within each state (if a joint model is pursued)?
- What degree of outsourcing will there be in service delivery? (E.g., will the Australian government employ any psychologists / counselors, or will all be licensed private practitioners? Who will deliver trainings to adoption authorities?)
- Which services will be free, which subsidized by the adoption authorities or by health insurance, and which (if any) subject to out-of-pocket payments
- What will be the model of interaction between the Centre of Excellence and other adoption bodies (e.g., country-of-origin governments and adoption agencies)

In terms of delivery methods, we urge the COE to serve adoption communities in ways that are sensible for each community. We imagine that this will mean in-person services both at state agencies and in the homes of adoptive families; counseling and other services by phone where necessary to complement in-person services; audio-visual training for professionals and families who are in remote regions of Australia; and online options for some trainings.

Other successful Centre of Excellence models in other areas of the country bear close study so that we may learn from the best of these examples as we further develop the plan for Australia's COE. We introduce one such model, led by expert Dr. Karyn Purvis at Texas Christian University, below.

Expert engagement and next steps

NAAW would like to propose engaging Dr. Karyn Purvis as an advisor on the design for the Centre of Excellence, and as a leader of training of the professionals who will be working with families. Dr. Purvis is one of the world's leading experts in working with children, families and professionals who have travelled the path of adoption. She created the Trust Based Relational Intervention (TBRI) program, which focuses on understanding the complex needs of adoptive and foster children and empowering parents and carers to help these children heal and reach their highest potential. Dr. Purvis specializes in trauma-based intervention for families in transition and has received the Heroes of Healthcare Award and the Infant Mental Health Advocacy Award. Her methods support families in raising children from a background of trauma or insecure attachments. Dr. Purvis is a Director at the Institute of Child Development at the Texas Christian University, a Distinguished Fellow in Adoption and Child Development (presented by the American National Council for Adoption), and the author of best selling book, *The Connected Child*, and the DVD series *Attachment*. She is also the founder of The Hope Connection, a research and intervention summer camp.

NAAW is happy to continue to participate in the dialogue as plans for the Centre of Excellence move forward, including as a thought partner in researching costs and most effective delivery models. Please do not hesitate to reach out if we can provide further information or assistance.

Sincerely,

National Adoption Awareness Week