
The Parliament of the Commonwealth of Australia

Breaking barriers: a national adoption framework for Australian children

Inquiry into local adoption

**House of Representatives
Standing Committee on Social Policy and Legal Affairs**

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Foreword

All Australian children deserve to feel safe and loved and to have a strong sense of identity and belonging. Unfortunately there are tens of thousands of Australian children in out-of-home care who need a family they can belong to. It is not acceptable that children are bounced around the system from one foster home to another or experience significant trauma where their safety and welfare is at significant risk.

There is another option. Open adoption can provide belonging, safety and legal permanency to many children in out-of-home care. Under open adoption relationships with birth parents are encouraged, not hidden. Children gain their adoptive family, which gives them a sense of belonging whilst maintaining relationships with their birth parent(s) and extended families, their heritage, and their culture, strengthening their sense of who they are and where they fit in the world.

Evidence given to the Committee's inquiry demonstrated that open adoption provides many benefits to children. These include a stronger sense of security and belonging, as well as improved cognitive, educational, mental and physical outcomes.

Despite this, the number of adoptions now occurring is very low. Only 246 Australian children were adopted in 2016-17. It has been reported that Australia has the second lowest rate of adoption in the developed world.

During the course of the inquiry it was made clear that the process to adopt an Australian child is unnecessarily complex. States and territories have inconsistent and fragmented complex legislative requirements which make it prohibitive and difficult to navigate. However, adoption does not need to be complex or time consuming.

The Committee's report addresses the legislative, policy and practice barriers to adoption and recommends a national law to make adoption a more viable option for all Australian children. The barriers to adoption include the fear of repeating mistakes of past forced adoption policies, a lack of understanding of open

adoption, and complex and consuming administrative processes with lengthy timeframes. These barriers in the context of a child's life which is fleeting - make the case for open adoption compelling and necessary. The essential principles of a national law would be embedded in a national adoption framework where the safety and best interests of the child is a paramount consideration.

One of the most significant issues raised by adoptees, prospective adoptive parents and child protection professionals was that birth certificates still reflect past adoption practices by replacing birth parents' names with the names of adoptive parents as if the child was born to them. This legal severance from birth families has had ongoing impacts on adoptees. In the spirit of open adoption, national legislation could establish the use of integrated birth certificates, which include the names of birth and adoptive parents.

Adoption may not be the best option for all children in out-of-home care, but when it is, it provides life-long belonging, legal permanency and the security of a profound sense of place. It is essential that we provide this opportunity to all Australian children through a nationally consistent approach to adoption.

On behalf of the Committee, I thank all the individuals, non-government organisations, government departments, advocacy and not-for-profit groups, and others, who contributed evidence to our inquiry. We valued your participation, and we hope our work can help break down barriers to the goal we all share: a better future for all Australian children.

Ms Julia Banks MP
Chair



Membership of the Committee

Chair Ms Julia Banks MP

Deputy Chair Ms Sharon Claydon MP

Members Mr George Christensen MP

Hon Warren Entsch MP

Mr Jason Falinski MP

Dr Mike Freeland MP

Ms Emma Husar MP

Mr Tim Wilson MP



Terms of reference

The House of Representatives Standing Committee on Social Policy and Legal Affairs will inquire into and report on approaches to a nationally consistent framework for local adoption in Australia, with specific reference to:

1. stability and permanency for children in out-of-home care with local adoption as a viable option; and
2. appropriate guiding principles for a national framework or code for local adoptions within Australia.

In undertaking its inquiry, the Committee will have regard to relevant legislative frameworks within Australia.



List of abbreviations

AbSec	Aboriginal Child, Family and Community State Secretariat
AIFS	Australian Institute of Family Studies
AIHW	Australian Institute of Health and Welfare
ATSICPP	Aboriginal and Torres Strait Islander Child Placement Principle
EY	Ernst & Young
FISH	Family Inclusion Strategies in the Hunter
OOHC	Out-of-home care
SNAICC	Secretariat of National Aboriginal and Islander Child Care
VANISH	Victorian Adoption Network for Information and Self Help Inc.



List of recommendations

2 Legislative and policy framework

Recommendation 1

The Committee recommends that the Commonwealth work with state and territory governments to achieve agreement, through the Council of Australian Governments, to develop and enact a national law for adoption.

Recommendation 2

The Committee recommends that a national adoption framework be adopted as the model and starting point for a uniform national law.

Key elements of a national framework regarded as essential for a uniform national law for adoption should recognise that:

- the best interests and safety of the child are paramount and override all other considerations;
- returning a child to parents or family/kin must only be an option when it is appropriate and safe;
- adoption should be considered before long-term foster care or residential care;
- family preservation and cultural considerations are important, but not more important than the safety and wellbeing of the child;
- legal permanency is key in providing stability and permanency for children;
- adoption from foster care is a viable option where a child has an established and stable relationship with an authorised carer and adoption will promote the child's welfare; and
- decisions on whether a child may be able to safely return to their birth parent(s) must be made within a legislated timeframe, such as six

months of an interim care order for children under two years old, or within 12 months for older children.

3 Adoption as a viable option for children in out-of-home care

Recommendation 3

The Committee recommends that, when it is determined that it is not safe for a child in out-of-home care to be reunified with their parent(s) or placed in the care of kin, open adoption should be considered and progressed as a viable option in the best interests of the child.

4 Policy and practice barriers to adoption

Recommendation 4

The Committee recommends that a national law for adoption provides for 'open adoption' unless exceptional circumstances make an open adoption inappropriate.

Recommendation 5

The Committee recommends that a national law for adoption provides for integrated birth certificates that include the names of both birth parents and adoptive parents, while conferring full parental and legal responsibility for adopted children on the adoptive parent(s).

Recommendation 6

The Committee recommends that all states and territories improve the administration of adoptions and reduce the complexity and length of adoption processes.

5 Evidence based decision making

Recommendation 7

The Committee recommends that the Australian Institute of Health and Welfare continue to work with relevant Commonwealth, state and territory agencies to improve data collection on adoptions and child protection in Australia, including by:

- collecting unit record data rather than aggregate data;
- agreeing on nationally consistent definitions;
- collecting data on: timeframes for finalising adoptions, sibling separation, parental consent (including dispensation of consent), adoption of Indigenous children, adoption of children with disabilities and special needs, and long-term outcomes for all adoptees; and
- maintaining registers of potential adoptive parents.