



Hon Mike Reynolds AM MP

Member for Townsville

Our Reference: PPM00053

7 JUL 2005



**Queensland
Government**

STANDING COMMITTEE

25 JUL 2005

on Family and Human Services

Minister for
Child Safety

The Honourable Bronwyn Bishop MP
Chair
Standing Committee on Family
and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600

SUBMISSION NO. 204

AUTHORISED: 21-7-05 *W Bishop*

Dear Ms Bishop

Inquiry into Adoption of Children from Overseas

As the responsible Minister, I am pleased to forward to you the Queensland Government's submission on the terms of reference for the House of Representatives Standing Committee on Family and Human Services' Inquiry into Adoption of Children from Overseas.

On 10 March 2005, I issued a statement, which I circulated to you and the members of your Committee, urging for this Inquiry to be conducted with respect and cultural sensitivity for our international adoption partners that entrust Australian families with the care of their children. I enclose a copy of my full statement to form part of the Queensland Government's submission to the Inquiry.

The Committee's Inquiry brings welcome attention to intercountry adoption at the national level and I am ready to work with the Australian Government and my state and territory colleagues to make constructive improvements to adoption processes. However, the focus of any such improvements must be on the best interests of children requiring adoptive families.

I acknowledge, as a positive first step, the announcement as part of the Australian Government's 2005-06 Budget, that parents adopting a child up to the age of two years from Australia or overseas will be eligible for the maternity payment, which is currently \$3,079 per child. The Australian Government had no choice but to backdate this measure to include children adopted on or after the introduction of the maternity payment on 1 July 2004.

It is my hope that, through the current Inquiry of the Committee on Family and Human Services, the Australian Government gives further consideration to its role in supporting intercountry adoption.

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In my statement of 10 March 2005, I called on the Australian Government to consider the introduction of adoption tax credits. Adoption tax credits are currently offered by other countries including Canada and the United States of America to help parents off-set the cost of intercountry adoption.

I also call on the Australian Government to look at how it can work more proactively in developing and strengthening relationships with other countries. I acknowledge that the Attorney-General is the appropriate Commonwealth Minister to administer Australia's obligations under the Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption, given the Attorney-General's responsibility for international law, including human rights and treaties. There also seems to be a clear role for the diplomatic experience of the foreign affairs portfolio in extending the hand of friendship to develop and enhance new intercountry adoption programs with other countries.

The Queensland Government is committed to improving adoption practice and processes, with particular emphasis on promoting the welfare and interests of children who require the care of an adoptive family. This commitment is evidenced by the current review of Queensland's legislation that governs both local and intercountry adoption. The desired outcome of the review is a legislative framework that supports contemporary, child-focussed and efficient adoption practice in Queensland into the future.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Mike Reynolds', with a long horizontal flourish extending to the right.

HON MIKE REYNOLDS AM MP
Minister for Child Safety

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Child Safety**The Hon. Mike Reynolds MP****10 March 2005****QUEENSLAND CALLS FOR NATIONAL ADOPTION DEBATE TO BE RESPECTFUL AND CHILD-FOCUSSED**

Queensland Minister for Child Safety Mike Reynolds has called for respect and caution to be displayed by the Commonwealth Parliament during its inquiries into intercountry adoption, and called for the national debate to be held within the context of the best interests of children requiring adoptive families.

Mr Reynolds said he welcomed 'long overdue' national attention to the issue of intercountry adoption but felt it was of utmost importance that the debate be conducted in a culturally respectful manner when discussing the number of overseas children being adopted by Australian families.

"The countries which have established adoption programs with Australian States and Territories do us an enormous honour by placing their children with loving Australian families," Mr Reynolds said.

"Each and every one of these countries demands the highest level of integrity from our Australian adoption programs and expects us to have rigorously screened prospective adoptive parents before sending files overseas.

"It takes time to conduct thorough assessments but we are talking about the lives of children here and I don't think we should be cutting corners.

"Once the files are approved and sent overseas the process of matching children with parents is not under Australian control and we have no right to pick up the phone and tell other countries to hurry up.

"I call on the Commonwealth Parliament to make itself aware of the cultural sensitivities in many nations surrounding intercountry adoption and not to assume we have an automatic right to acquire children from other countries.

"Intercountry adoption is not the same as state development or trade relations and children are not commodities being imported.

"Any one of our international adoption partners could wipe us from their books tomorrow if we acted disrespectfully in any of our adoption processes."

Mr Reynolds said the most important thing to be debated in Australia is how we can help the children who come to live here and how we can assist the adoptive parents who face years of stress and emotion in the lead up to an adoption.

"Adoptive parents are genuine and loving people who

want to provide homes for children in need of a permanent placement and as a country we could be doing more to assist them," Mr Reynolds said.

"As someone who believes in a child-focussed adoption system I certainly agree that the \$3000 baby bonus should be automatically paid to adoptive parents upon the placement of a child with their family.

"In this area I see no difference between the needs of a child who has been adopted by an Australian couple or born to them naturally.

"I also believe that the Commonwealth could consider following the lead of other countries such as Canada and the United States by introducing adoption tax credits to help parents off-set the cost of intercountry adoption.

"It should be remembered that States and Territories also administer local adoption programs and post-adoptive services to people who have been affected by adoption in the past and that the abolition of intercountry adoption assessment fees could render States unable to deliver these services to Australians already affected by adoption.

"These are the kinds of questions Australia should focus on rather than any watering down of screening processes or risking international offence by putting pressure on countries to send us more children."

Mr Reynolds said he stood ready to work with the Commonwealth on constructive improvements to adoption processes in Australia but he warned that this issue should not become another State and Territory bashing exercise by the Commonwealth.

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Submission of the
Department of Child Safety
Queensland Government
on the Terms of Reference for the
House of Representatives Standing Committee on Family and Human Services'
Inquiry into Adoption of Children from Overseas

Background

The House of Representatives Standing Committee on Family and Human Services has invited submissions on the terms of reference for the committee's Inquiry into Adoption of Children from Overseas. The committee's terms of reference are:

The Committee shall inquire into and report on how the Australian Government can better assist Australians who are adopting or have adopted children from overseas countries (intercountry placement adoptions) with particular reference to:

1. any inconsistencies between state and territory approval processes for overseas adoptions; and
2. any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas.

Introduction

The current legislative basis for the adoption of children and the delivery of adoption services in Queensland is the *Adoption of Children Act 1964* and the *Adoption of Children Regulation 1999*. The Minister for Child Safety, currently the Honourable Mike Reynolds AM MP, has Ministerial responsibility for administration of Queensland's adoption legislation. Under the provisions of the Act, the Department of Child Safety is the only agency with authority to arrange adoptions in Queensland. Adoption orders are made by the Director-General of the Department of Child Safety.

In 2003-2004, a total of 65 adoption orders were made in Queensland. Of these orders, 49 relate to children from overseas who were placed with Queensland adoptive families. In 2004, 587 couples expressed an interest in becoming adoptive parents under the intercountry adoption program in response to a public call for expressions of interest.

The *Adoption of Children Act 1964* provides for the welfare and interests of children requiring adoption, the rights and responsibilities of all parties to adoption and the processes associated with adoption in Queensland. The Act also prescribes requirements for the exchange of information and contact between the parties after an adoption.

The Act provides for the adoption of children in Queensland who require a permanent arrangement for their care and for the adoption of children from overseas by Queensland parents (known as intercountry adoption).



Intercountry adoption arrangements occur under the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption* or under bi-lateral Government to Government arrangements. Queensland has intercountry adoption arrangements with China, Colombia, Ethiopia, Fiji, India, Hong Kong, Korea, Lithuania, Mexico, Philippines, Sri Lanka, Thailand and Taiwan. New programs are being established with Chile and Bolivia.

Review of Queensland's Adoption Legislation

The legislative and regulatory framework for adoption in Queensland dates from 1964. Whilst the Act provides that the welfare and interests of children are paramount and amendments to the Act have been made over the last 40 years, societal changes since the 1960s mean that many of the provisions are now outdated.

Queensland's adoption legislation is currently under review to inform the development of a legislative framework to support contemporary, child-focussed and efficient adoption practice in Queensland. The terms of reference for the review and an overview of the matters being considered as part of the review are contained in the discussion paper, *Adoption Legislation Review*. This discussion paper formed the basis of a statewide consultation process that was conducted from July to October 2002. *The Report: Public Consultation on the Review of the Adoption of Children Act 1964* was released in April 2003. Copies of these documents are attached and are also available on-line at www.childsafety.qld.gov.au/adoption/legislation/review.

In addition to the feedback from public consultation in Queensland, the review is being informed by:

- research about quality adoption standards and practices, including developments in other jurisdictions;
- Queensland's obligations under the *National Minimum Principles in Adoption* agreed to by the Council of (Australian) Social Welfare Ministers in June 1993; and
- Australia's international obligations under the *United Nations Convention on the Rights of the Child* and, more specifically, the *Hague Convention on Protection of Children and Co-operation in Respect of Intercountry Adoption*.

The Minister is intending to engage further with the community about the future of Queensland's adoption legislation through the release of an exposure draft of proposed adoption legislation later in 2005.

The process for couples in Queensland who wish to adopt a child through an intercountry adoption is being considered in the review and is likely to be affected by the introduction of new adoption legislation. The review is at the stage of formulating recommendations to present to the Queensland Government and it is, therefore, premature to comment in this submission on the likely nature of any changes to the intercountry adoption process.

Term of Reference 1: Any inconsistencies between state and territory approval processes for overseas adoptions

Consistency of State and Territory Law and Practice

Welfare and interests of child to be paramount

One aspect of adoption practice and process that is clearly consistent across all Australian jurisdictions is the paramountcy given to the welfare and interests the child. This principle is

reflected in all Australian adoption legislation, the United Nations Convention on the Rights of the Child, the Council of (Australian) Social Welfare Ministers' National Minimum Principles in Adoption 1993 and the *Hague Convention on the Protection of Children in Respect of Intercountry Adoption*. In Queensland, it is enshrined in section 10 of the *Adoption of Children Act 1964* provides that the welfare and interests of the child are to be regarded as the paramount consideration for the purposes of most of the Act.

Importantly, this principle recognises that:

- adoption (including intercountry adoption) is a service to provide permanent care for children who would not otherwise have a permanent, legal family and, as such, depends on the recruitment and assessment of suitable prospective adoptive parents; and
- no person has a right to adopt a child.

Foundation for consistent law and practice

While states and territories develop and administer their own adoption law and practice, they do so within an existing national framework that demonstrates a commitment to consistent adoption principles and inter-jurisdictional co-operation. This framework provides a common basis from which the states and territories undertake adoption practice, without prescribing specifically how adoption services must be delivered and is evidenced by:

- the *National Minimum Principles in Adoption* agreed to by the Council of (Australian) Social Welfare Ministers in 1993; and
- the 1998 Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Cooperation in respect of Intercountry Adoption.

Queensland endorsed the *National Minimum Principles in Adoption* through the Council of Social Welfare Ministers in 1993 and is a signatory to the Commonwealth-State Agreement for the Implementation of the Hague Convention. In 1999, the Queensland Government amended the *Adoption of Children Act 1964* to enshrine in legislation the State's obligations under the Hague Convention.

Consistent with the *National Minimum Principle in Adoption* and the Hague Convention, the underpinning principle for the delivery of adoption services in Queensland is that the adoption only takes place in the best interests of the child and with respect for the child's fundamental rights as recognised in international law.

Queensland Process for Couples Considering Adopting a Child from Overseas

The attached information booklet, *Expressions of Interest Information Booklet: Intercountry Adoption*, outlines the process for intercountry adoption in Queensland. The booklet provides a comprehensive overview of the current law and practice in Queensland governing intercountry adoption and forms the Department of Child Safety's submission in respect of the first of the committee's terms of reference.

In overview, the process for Queensland couples considering adopting a child from an overseas country comprises the following steps:

- lodging an expression of interest and establishing eligibility;
- participating in education and assessment processes to inform a decision about a couple's suitability to be prospective adoptive parents;

- if found to suitable, consideration of the couple as prospective adoptive parents moves to the relevant adoption authority in the couple's country of preference and the couple participates in the overseas process and travel; and
- post-placement follow up and adoption order.

Attachments

- Adoption Legislation Review: Consultation Paper
(available on-line at www.childsafety.qld.gov.au/adoption/legislation/review)
- Adoption Legislation Review: The Report: Public Consultation on the Review of the *Adoption of Children Act 1964*
(available on-line at www.childsafety.qld.gov.au/adoption/legislation/review)
- Expressions of Interest Information Booklet: Intercountry Adoption

Term of Reference 2: Any inconsistencies between the benefits and entitlements provided to families with their own birth children and those provided to families who have adopted children from overseas

Income Assistance for Families

Income assistance and support for families to offset the cost of raising children, whether in the nature of concessional taxation or supplementary income, is the responsibility of the Australian Government.

Queensland Government Services for Families

A number of Queensland Government agencies provide support and services to families, children and young people. With the exception of specialist adoption services provided by the Department of Child Safety, no distinction is drawn between biological and adopted children in the provision of benefits and services.

The following are examples of some of the support and services provided by Queensland Government agencies.

The **Department of Child Safety** provides a range of supports to adopted children, adopted adults and adoptive families including information, advice and resources, referral to specialist services, information release (identifying and non-identifying) and the exchange of non-identifying correspondence through the Mailbox system.

The department also provides financial support to foster carers who care for a child before the child is placed with adoptive parents. This financial support is no different to that provided to foster carers caring for children who are not in pre-adoptive foster care.

The **Department of Communities** monitors the legislative standards in child care services in Queensland. In addition, the department supports the provision of quality child care and family support services by funding prevention and early intervention services in areas of high need. The department provides information to parents about the range of child care services available and the criteria for choosing quality child care services that meet the needs of children and their families.



Education Queensland supports children, young people and families through a range of programs and services delivered through all state primary and high schools. Guidance officers, school based youth health nurses, youth support coordinators, school based police officers, social workers, psychologists and therapists, work collaboratively within the school community by providing support and advocating on behalf of young people on issues affecting their health and wellbeing.

Disability Services Queensland funds programs and services that provide support for families and children with disabilities.

Queensland Health has a network of child and community health centres which provide family centred, multi-disciplinary care focusing on promoting health, preventing illness and injury and early intervention for children and their families. Child health nurses in these centres offer a range of services and programs including assessment of growth and development. Parents are provided with information about growth and development, immunisation and a range of community resources, including child health services. Child health nurses act as a link to other health care providers including paediatricians, allied health workers and general practitioners.

Department of Industrial Relations: Queensland Public Service employees are entitled to various forms of family leave which are also available to assist public servants who adopt children. Employees have access to maternity, spousal or adoption leave in accordance with Public Service Directives. A total of 52 weeks paid (which may include recreation and long service leave entitlements) or unpaid leave is available.