

NSW

22 April 2005

Standing Committee on Family and Human Services
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Dear Committee Members

Inquiry into adoption of children from overseas

We are very grateful to you for holding an inquiry into the intercountry adoption process as we believe there are many inconsistencies in federal and state government legislation, policies and procedures that frequently lead to discrimination and significant disadvantage for adoptive families in comparison with other Australian families.

As adoptive parents, under the terms of your inquiry, we would commend to you the following for investigation:

1. Any inconsistencies between state and territory approval processes for overseas adoptions.

(a) The federal government is the lead agency under the Hague convention for intercountry adoption, and legislation governing the processes that derive from this role should therefore be federal-based in order to give applicants equal access to intercountry adoption wherever they live in Australia.

The following are some of the major inconsistencies that are unacceptable.

(b) Fees should be uniform across the country for all applicants. Last year NSW implemented a full cost recovery regime for applicants for intercountry adoption, raising its fees to \$9700 for an application for a first child and \$7000 for a second child, more than tripling those that formerly applied and placing these costs at least 30% higher than the next most expensive state (Victoria) and three times the cost in most other states.

(c) The committee should take note that these fees cover only the NSW government-run application process – applicants have to pay further fees for their medicals, police checks, psychological profiling, Department of Immigration processing, overseas country of adoption application costs, orphanage levies, plus travel and hotel expenses, and then adoption finalisation fees in the Supreme Court in their home state. These can easily add another \$20,000+ to the cost.

(d) The 'cost recovery' system implemented in NSW last year for intercountry adoption was not applied for local adoptions – overwhelmingly available only to young couples –

who pay far lower application fees, so there is discrimination even between different types of adoption in NSW.

(e) In almost all cases, intercountry adoptive families are unable to adopt locally due to the very low number of Australian-born babies surrendered for adoption and the preference of the birth mothers for young couples when they place their babies for adoption. The committee should note that the number of families looking to use intercountry adoption to form their families is likely to increase in coming years given the prevalence of later marriage and resulting infertility.

(f) Different states apply different restrictions on applicants – we believe no limit on applicants' ages is acceptable within Australia as this is already determined by countries who place their children with families in this country. This is their prerogative and further age restrictions by states here are discriminatory.

(g) Funding should be adequate for every state to run an ongoing service – for example, currently Queenslanders effectively are forced to move interstate if they have no choice but to form their families through intercountry adoption as in the last few years there have been only a few months when the state permitted adoption applications, such is the shortage of funds and/or commitment to operate this service.

Conversely, families can find it extremely difficult to move interstate during the adoption process because of the difficulty of transferring adoption applications from one jurisdiction to another. This can have a detrimental effect on career prospects, lifestyle choices and other issues of importance to individual families.

(h) Funding should be adequate and policies and procedures produced to enable published timelines to be set and met for the processing of an application for intercountry adoption, so applicants are given certainty at the outset of the duration of the process.

Timelines can vary enormously even for applicants who have no special circumstances that need further investigation (eg, a medical issue that needs clarification by a specialist doctor).

Some families have waited several years for applications to be processed and sent to the country of adoption, where frequently there is a further wait of many months or even years before allocation of a child.

This can lead to situations such as a family becoming ineligible for their chosen country program due to age restrictions imposed by that country, even though they qualified when first submitting their application, and many other pressures resulting from such uncertainty.

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.

(a) Many countries recognise the huge cost burden of forming a family through adoption by giving adoptive families tax relief and/or allowances for adoption-related expenses and Australia has in the past also offered this assistance.

For example, for the 2005 year Americans can claim \$10,630 against income tax under Code Sec. 23(a)(3) of their Tax Act for adoption-related expenses, a figure that is increased annually and it is reported US President George W Bush last year spoke out warmly in favour of adoption.

Meanwhile, Canada has just announced the introduction of a \$C10,000 tax credit for adoption expenses, while Sweden awards families \$US5822 per child for their adoption expenses and Denmark gives a \$US6000 per child allowance.

The costs outlined in 1 (b) and (c) above have to be found from families' after-tax income, which frequently leads to a considerable debt burden that disadvantages adoptive families relative to other families.

(b) Furthermore, adoptive families should benefit from at least the same level of subsidy as birth families receive for their comparable costs, ie pre-natal/hospital/post-natal healthcare and other services, which are all subsidised under Medicare. Adoptive families pay the same taxes as the rest of the community and should expect the same level of benefits as birth families.

Even parents who choose private hospital and healthcare for the birth of their children obtain a partial refund of their expenses from Medicare and a further refund from their private healthcare fund, while those who use the public health and hospital system are almost entirely subsidised.

(c) In addition, Australians with medical bills over a certain threshold can claim a percentage of excess expenses against their tax in any given year, which enables yet more of the medical costs of birth to be reclaimed, whereas no such comparable reimbursement is available to families for their child-related adoption expenses.

(c) Adoptive families should be eligible for the maternity payment, baby bonus and any future similar initiatives designed to assist families, regardless of the age of the child they adopt. Very few intercountry adoptive families are eligible for the current initiatives as these are restricted to newborn or young babies and these children are rarely allocated for intercountry adoption due legal and bureaucratic processing timelines.

(d) Adoptive parents should be entitled to at least the same maternity leave, return to work provisions and any other child-related provisions in workplace agreements, awards and other policies and procedures in all Australian workplaces.

(e) In some cases more generous provisions should prevail; for example, some countries placing children for adoption require both parents to be in that country for several weeks while legal adoption processes are completed, and this should be recognised in leave provisions for those families.

(f) Furthermore, maternity leave needs to be available regardless of the age of the child – under NSW adoption regulations, for example, the mother is required to stay at home for at least the first six months after the child is brought home.

Thank you for taking these issues into consideration during your deliberations. and we look forward to the elimination of discrimination against intercountry adoptive families, to ensure all Australians receive equal assistance from their elected governments, regardless of whether their families are formed through birth or adoption.

We are happy to elaborate any of the above or answer further questions you may have.

Yours sincerely

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