



Submission

Inquiry into the Child Protection and Other Legislation Amendment Bill 2020

Queensland State Parliament Legal Affairs and Community Safety Committee

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This submission by The Benevolent Society (TBS) comments on Part 3 of the Bill, concerning the proposed amendment of the Child Protection Act 1999. It also includes issues that have not been addressed in the Bill but which should be considered in amendments to the existing Acts, if the intent of these changes is to be realised. It builds on our earlier consultation paper submitted to the initial consultation process *Permanency and Stability for Children in Care*.

Our submission is based on our extensive experience in working with children and families across the full breadth of the support and protection system. TBS has over 30 years of experience in working with people affected by adoption in both Queensland and New South Wales. TBS delivers Fostering Young Lives in NSW and Post Adoption Services across both NSW and QLD. Our Post Adoption teams have worked with over 90 000 people across both jurisdictions, including adopted adults, birth parents, extended family members and adoptive families. Our specialised counsellors work with individuals to address any issue relating to an adoption experience, decision, process or practice which may appear at different life stages, such as adolescence, forming relationships, birth of children or the death of parents.

We would be interested for a representative of TBS to appear as a witness before any public hearing of the inquiry.

We suggest that Part 3 of the Bill does not adequately address the issues that it is intended to resolve. We suggest that Part 3 should be removed pending a more in depth consultation and drafting process.

Our submission has four key messages:

1. The permanency hierarchy for children in Out of Home Care (OOHC) should not explicitly reference adoption
2. The process as proposed in the Bill is flawed
3. More state support is needed for long term services for people at all stages of OOHC
4. Principles relating to Aboriginal and Torres Strait Islander people require further consideration and consultation

1 The permanency hierarchy for children in Out of Home Care should not explicitly reference adoption

We do not support the legislation of a permanency hierarchy that explicitly references adoption, as proposed in the Bill (Clause 8). Our concern is that the proposed hierarchy may have the effect of prioritising the process over the best interests of the child. Through our work and relevant research we have learned that the lived experience of each child and those around them is unique; and that their best interests will not be served by a hierarchy that positions adoption as the ultimate solution. Adoption, even when clearly in a child's best interests, entails changing a child's identity and severing the legal rights of birth parents. It is a traumatic process that can encompass grief, loss of identity, guilt, loss of control, difficulty in forming intimate relationships and a sense of rejection.¹ Both birth and adoptive parents also experience various combinations of guilt, grief, frustration and anger. These manifestations of adoption-related trauma can emerge and recur throughout the lifetime of all concerned.

¹ Silverstein, DN, & Kaplan, S (1988)

The Benevolent Society supports open adoption from out-of-home care where it has been comprehensively determined that this is in the best interests of an individual child.² However the emerging evidence and TBS' experience is that open adoption as currently practiced does not eliminate the trauma of adoption, rather it creates new stresses for the child and for its birth and adoptive parents. In a sample case from TBS in New South Wales, contacts between the birth mother, the child and the adoptive parents created new stresses. Despite voluntarily giving up her son for adoption, the mother found that she was re-experiencing the loss of her child after each visit. Without any mandated external supervision or support, past mental health issues re-emerged and she was hospitalised. The mother considers that the greater monitoring and facilitation mandated for her visits under an OOH arrangement would have mitigated her trauma.



Figure 1: Quotes from adopted persons, from a TBS Infographic poster (2019). There was high demand for copies of the poster by people affected by adoption and it has been widely shared on social media.

We are concerned that explicit reference to adoption as an option within a hierarchy of permanency responses could have inadvertent negative consequences for those impacted by adoption now, and ask the Government to consider their experiences of trauma, grief and loss, and the lifelong consequences that accompany this.

2 The process as proposed in the Bill is flawed

TBS suggests that the permanency hierarchy and other provisions presented in the existing *Child Protection Act (1999)* and the *Adoption Act 2009* offer an adequate legislative framework to facilitate permanency, including adoption when it is found to be in the child's best interest. The changes proposed in the Bill do not improve on the existing provisions. There are three reasons for this.

The first is that the proposed change risks creating a perception and even expectation of adoption as the inevitable final step on the OOH journey. As noted above this would risk exacerbating the existing trauma of people who have already experienced adoption, and locking in future trauma for vulnerable children and their carers. Channelling increased numbers of children through to adoption without provision in the Bill for post-adoption support also risks creating considerable demands for service for organisations like TBS that provide post adoption services, without adequate resources to meet this demand. Attachment A details the circumstances of a Queensland family with two adopted children from different families and describes the associated support workload, which is considered to be intense, but not exceptional.

TBS' Post Adoption Services Queensland reports consistent high levels of demand for its services, with close to 200 clients each year. The most common requests for assistance include coping with grief and loss, searching for birth relations, initiating contact, identity issues and relationship issues.

² The exception to this is in the case of Aboriginal and Torres Strait Islander children, where we support the continued and full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle.

Client feedback demonstrates that people affected by adoption need a diverse range of assistance at all stages of life.³

The second reason is that the proposed hierarchy diminishes the ongoing discretionary power of the responsible authority to identify the care option that is in the best interests of each child. While other forms of OOHC mandate a role for the state in oversight, support and review, this responsibility ends on the finalisation of an adoption process, despite its considerable long term consequences. Increasing the prominence of adoption in the legislation will require a commensurate increase in funding for support.

Finally, the Bill proposes a hierarchy resembling that which has already been implemented in New South Wales, with open adoption being the preferred means for adoption. Our experience has been that this has led to new demands for our services by those experiencing new forms of emotional distress and trauma and resulted in a range of new emerging issues that need to be considered and addressed.

TBS' Post Adoption Resource Centre (PARC) in NSW reports an increased workload due to rising numbers of adoptions from OOHC. Parents accessing PARC's Therapeutic Parenting program report that it is their only opportunity to discuss the difficulties they are experiencing with their adopted children in terms of behaviour; and especially contact difficulties with birth families. PARC also reports increasing numbers of adolescent adopted people requesting counselling for problems around identity and managing contact with birth family, school issues, social issues including race.

3 More state support is needed for long term services for people at all stages of OOHC

The Benevolent Society is concerned that the Bill makes no provision to expand support for people at all stages of OOHC, particularly after an adoption is finalised. Post adoption support is under-resourced at present, and more would be needed if adoption were to be explicitly included in the permanency hierarchy.

Adoption is not an end point in a person's experience of Out of Home Care. The psychological, physical, social and emotional effects of an adoption may be felt long after an order is made and do not end upon entering adulthood; indeed, the effects are lifelong. The Australian Institute of Family Studies' 2012 research into the effects of past adoption experiences showed that adopted people have far higher rates of physiological distress and mental health issues than the general population:⁴

| | Male | Female | Adopted persons |
|---|-------|--------|-----------------|
| Likely to be well | 85.6% | 79.6% | 54.1% |
| Likely to have a moderate/ severe mental disorder | 5.8% | 9.9% | 28.2% |

Recent data from the United Kingdom's *Adoption Barometer* gives an indication of the mental health challenges faced by adopted persons. Despite being generally positive and determined, more than half of the respondents experienced 'significant or extreme challenges' including violence or aggression from the child and difficulties in accessing support and in managing contact with birth families. Adopted children were eight times more likely than other children to have ADHD, and were seven times more likely to have a diagnosis of autistic spectrum disorder.⁵

³ The Benevolent Society, Post Adoption Support Queensland, *Service Report 2019*

⁴ Kenny P, Higgins D, Soloff C, & Sweid R (2012).

https://www.dss.gov.au/sites/default/files/documents/08_2012/past_adoption_experiences_report_2012_0.pdf

⁵ Adoption UK (2019) The Adoption Barometer <https://www.adoptionuk.org/the-adoption-barometer>

As we observed in our submission to the initial consultation for this Bill “it is our experience that the psychological needs of all parties will continue to change at various life stages. Navigating the complex relationships between the adopted person, birth and adoptive families is a challenging and ongoing process that will often require additional professional support. The impacts of adoption are likely to be felt at different life stages or be triggered by particular life events, requiring tailored support responses.” Numerous case studies demonstrate the long standing effects of separation from family, the new trauma that can arise from searches for birth family members, and the considerable and long term support required from TBS and other providers.⁶

TBS recommended in 2018 the development of a nationally consistent framework to improve stability and permanency for children. This included a call to make high quality ongoing support services available to all children and families affected by adoption to address trauma, support connection to biological family and strengthen family functioning.⁷

Addressing this issue potentially requires amendments to both Acts (Adoption and Child Protection), and will need more consideration and consultation to prepare those amendments than is feasible in the current process. We would encourage the review committee to recommend deferral of Part 3 of this Bill until such time as this can be adequately addressed. As noted in our earlier submission, funded and ongoing specialised post adoption support is needed across the life span to enhance long term outcomes for children who are adopted. Particularly for:

- Information, support and resources for all family members affected by adoption
- Independent ‘Support Centres’ to assist in the creation of adoption plans (similar to government funded specialist mediation services such as those provided to separating parents to develop child custody arrangements)
- Providing support and assistance for managing contact arrangements set out in the adoption plan (including mediation/intermediary support)
- Outreach and intermediary services to re-establish contact when it has lapsed
- Specialised support for adoptive parents (support, information, groups and counselling)
- Specialised support for birth parents (support, information, groups and counselling)
- Specialised support for adopted people throughout life stages, i.e. as children, young people and adults (support, information, groups and counselling)

There is also a need for ongoing investment in collecting data on OOHC, including adoption in Queensland and Australia generally.

4 Principles relating to Aboriginal and Torres Strait Islander people require further consideration and consultation

The Benevolent Society works in close partnership with the Queensland Aboriginal and Torres Strait Islander Child Protection Peak (QATSICPP) and stands in support of its positions concerning child protection of Aboriginal and Torres Strait Islander children.

TBS notes that the Bill provides for a differentiated hierarchy for Aboriginal and Torres Strait Islander people, placing adoption as the final step. Special consideration for Aboriginal and Torres Strait Islander children is appropriate as guardianship outside family, kinship or community care is viewed by many Aboriginal people as a ‘quasi-adoption’ order that separates children from their

⁶ The Benevolent Society (2018), *QLD Adoption Family Tracing Service RFQ DCSYW047 for the Department of Child Safety, Youth and Women (DCSYW)*, Attachment A

⁷ The Benevolent Society (2018), *Submission: Inquiry into local adoption*, Standing Committee on Social Policy and Legal Affairs

communities and culture.⁸ Any action taken to dissolve Aboriginal and Torres Strait Islander children and young people's connection to family, community and culture, will lead to the continuation of intergenerational trauma as evidence by the *Bringing them Home* report. Clearly, the continued disproportionate over-representation of Aboriginal and Torres Strait Islander children in the child protection system requires the full resourcing of the child placement principles for Aboriginal and Torres Strait Islander children (Child Protection Act 1999, 5C).⁹

We note that the undifferentiated treatment of Aboriginal children and Torres Strait Islander children does not reflect the Torres Strait Islander community's distinct adoption practices. These have been recognised at least since the *Bringing Them Home* report (Ch 22) and are the subject of *The Torres Strait Islander Traditional Child Rearing Practice Bill* that was introduced to Parliament on 16 July 2020. We would encourage the deferral of the Part 3 of *Child Protection and Other Legislation Amendment Bill 2020* to ensure that it aligns with the Torres Strait Islander Bill.

⁸ Productivity Commission, Report on Government Services, Part F, Chapter 16, Child Protection Services 2018/19. p10

⁹ The most recent advice from QATSICPP on the structural and resourcing requirements for Aboriginal and Torres Strait Islander children in the child protection system, including out of home care, is available in the *Family Matters QLD Community Resource Guide* (June 2020) <https://www.qatsicpp.com.au/blog/2020/06/11/family-matters-qld-community-resource-guide/>

Attachment A: Case study of the services required for one Queensland family with two adopted children

Background

Client: Adoptive parents of two locally adopted young people aged 14 years and 18 years. The oldest young person has had mailbox contact with their family throughout his life and face to face contact with his grandparents has been established within the last year; he experienced a period in foster care prior to adoption.

The younger teen has not had any birth family contact due to the birth parent's lack of engagement with mailbox contact. She has several siblings in the care system and she spent time in foster care prior to being adopted.

Presenting issues

- The parents made contact with PASQ requesting parenting support with their two adopted young people, particularly their youngest daughter. She was displaying aggression both within the home and at school which led to a school placement breakdown and frequent school suspension in her new school. The parents reported conflict within the home, challenges in their teens peer relationships and frequent absconding.

Support provided

- PASQ Counsellor provided weekly skype sessions focused on Therapeutic Parenting and psychoeducation around the teenage brain, impacts of adoption trauma and the core issues of adoption (focusing on challenges with attachment and trust; the impact of developmental trauma; living with pervasive shame; difficulty regulating emotions; grief and loss; complicated identity development).
- PASQ Counsellor provided regular support around safety planning due to the risks posed by both young people absconding.
- PASQ Counsellor provided support around managing birth family contact for the older young person, including helping the parents understand the impact on him, and the complications for the young person with no birth family contact.
- The younger teen accesses support from a private psychologist and regularly visits a paediatrician in regards to a diagnosis of ADHD and medication management.

Outcome and ongoing needs identified

- Despite the support provided, the issues with the family continue to escalate and the family often contact PASQ in crisis. The private psychologist supporting the youngest child advised the parents to physically restrain them when they attempted to abscond which led to further aggression and conflict within the family relationships.
- PASQ has identified through the ongoing assessment and current intervention, the need for case management support for this family that incorporates contact with the respective schools, psychologist and the birth families - a whole of family approach. PASQ has also identified a need for:
 - Family group meetings to facilitate attachment and repair between family members recognising the needs of all family members and how past adoption trauma is being activated.

- Individual support to the young people around their unique adoption experiences to assist their development of a coherent life narrative, to support their developing identity and integration of experiences/differences within their families.

Support limitations

- PASQ's experience is that many adopted young people and adults typically feel a torn loyalty when curiosity arises around birth family, which is typically suppressed due to the loyalty felt towards adoptive parents and fear of causing upset. Individualised specialist support would allow for these conflicts to be discussed and supported, something which the parents in this scenario and many others struggle to know how to broach and support as the young people's needs evolve.
- PASQ's service agreement extended in recent years to incorporate support to anyone impacted by adoption across the lifespan. However, given the intensity of the support required for cases such as this one, which in our experience is not unique, current resourcing makes meeting this demand unfeasible.
- Other specialist support of this kind does not exist within the community. Some private practitioners offer this but substantial costs are often a prohibitive factor for families.
- The overwhelming experience of our service in providing counselling support to adult adopted people and is well evidenced in literature, is that the adoption trauma is typically activated at different stages of life and that the impacts are lifelong. Many often talk about feeling 'different' as a child due to their adoption experience, and not feeling supported with this within their families which in many cases has resulted in family breakdown, with young people moving out of their home onto independent living with fractured family relationships.