



Department of Human Services

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Senator Rachel Siewert
Chair
Senate Community Affairs Reference Committee
PO Box 6100
Parliament House
CANBERRA ACT 2600



Dear Senator Siewert

Thank you for your letter about the Senate Community Affairs References Committee inquiry into the Commonwealth contribution to former forced adoption policies and practices.

You have requested information about Victorian law and practice with regard to access to information.

I am pleased to provide a response to the issues you raise in an attachment to this letter.

I trust this information has been helpful to you. I look forward to the inquiry report in February 2012.

Yours sincerely

Gill Callister
Secretary

Att

Information for the Senate Inquiry into the Commonwealth contribution to former forced adoption policies and practices regarding access to information law and practice in Victoria.

Background to the current provisions of the Adoption Act 1984

The *Adoption Act 1984* was based on the recommendations of the Adoption Legislation Review Committee, which carried out a major review of adoption legislation and practice and reported in 1984. The information provisions of Victoria's *Adoption Act 1984* came after more than ten years of community consultation. The law had bipartisan political support.

Victoria was the first state in Australia to pass legislation allowing people affected by adoption to obtain information about the adoption. Deliberations at the time focussed on the need to protect the privacy of the adopted person and allow them to make decisions about the level of information and contact they wished to provide to other parties. This was within a commitment to the overriding principle that the welfare and interests of the child are paramount.

The Act placed restrictions on the provision of identifying information in line with privacy considerations, and established safeguards such as seeking agreement between parties and the provision of counselling by an adoption information service. With regard to adopted persons, however, the best interests of the child were seen to override such considerations, and identifying information was to be provided to adult adopted persons as a right.

Current practice seeks to balance the needs of all persons affected by adoption. Birth parents are entitled to non-identifying information about their child's adoption and relevant adoptive family history from adoption records. If birth parents want current or identifying information, or to make contact, an approach is made on their behalf by Family Information Networks and Discovery (FIND), or an approved Adoption Information Service (AIS) to the adopted person or their adoptive parent. Release of identifying information requires the permission of the adult adopted person or of the adoptive parent if the child is less than 18 years old.

Locating an Adopted Person

The Family Information Networks and Discovery (FIND) helps people to access personal and family information, records and support about adoption. Adoption Information Services in Victoria are also provided by CatholicCare, Anglicare, and Connections. These services help people separated by adoption who want to obtain information or to contact one another.

Every search is different depending on the information available in each case. A basic search includes all available court, agency and ward records, the electoral rolls, Births, Deaths and Marriages, and the white pages. If unsuccessful, the search is broadened to online death indexes, consultation with adoption information services in other states, rural information or genealogy centres, National Missing Persons Unit, the Salvation Army, Red Cross and International Social Services, and if records suggest it, contact with prisons, disability services or the Chief Psychiatrist. FIND is not able to obtain information from the Australian Taxation Office, Victoria Police, Vic Roads, Department of Immigration or Medicare.

If a search is unsuccessful, the birth mother may apply to the County Court under Section 99 of the *Adoption Act* for information that will identify the adopted person. This may be granted at the discretion of the judge after reading the report submitted by the approved counsellor. If the birth mother does not want to do this, then her details remain on a Central Register maintained by FIND, and she is informed that she will be notified if the adopted person registers with FIND in the future.

If the adopted person is deceased, the *Adoption Act* section 96 (2)(a) allows the birth mother to obtain identifying information. FIND will offer to mediate with the adoptive parents if they are alive and assist with obtaining information about the adopted person's life.

Data about applications made by birth parents for information in 2009-10

In 2009-10 there were 94 applications by birth parents, 88 of which have been completed. In 46 cases out of the 88 completed cases (52 per cent) information and/or contact was shared, in 16 cases (18 per cent) birth parents did not pursue contact at this time, and in 24 cases (27 per cent) contact was not possible because the adopted person refused contact or could not be found.

Requests from Birth Parents for Information Regarded an Adopted Child 2009-2010

Adopted person refused contact	Unable to locate adopted person	Parties exchanged non-identifying information	Parties exchanged identifying information	Birth parent registered but did not proceed	Birth parent left details on register	Birth parent returned to service for counselling	In progress	Total
15	9	20	26	6	10	2	6	94