



**Submission by the NSW Committee on Adoption and Permanent Care Inc
to the Joint Standing Committee on Electoral Matters**

February 2014

**Inquiry into and report on all aspects of the conduct of the 2013 Federal Election
and matters related thereto**

Submission:

Thank you for the opportunity to comment on the issue of Australian Electoral Commission's (AEC) change of practice to public access to the electoral roll and recent enforcement of the Act of 1918.

The NSW Committee on Adoption and Permanent Care Inc ("the Committee") is a peak body non-profit organisation with membership comprising government and non-government agencies, support groups and individuals interested in, involved in, or affected by adoption and permanent care or related issues. Our members include the Department of Family and Community Services, plus all three accredited non-government adoption agencies and the three funded post adoption non-government support organisations.

Members of the Committee have a wide range of experience with a variety of adoption and Out of Home Care situations in New South Wales. We consider practice of inter-country adoption, local adoption with parental consent, intra-family and step-parent adoption and adoption for children placed in permanent out-of-home care situations, with or without parental consent, as well as all permanent care options (i.e. Sole Parental Responsibility and Out of Home Care). We meet every second month to discuss various practice issues pertaining to adoption and Out of Home Care and provide recommendations regarding legislation within the field.

The principle reason why the Committee wishes to make a submission to this Inquiry pertains to the impact of the AEC's change of practice to public access to the electoral roll and recent enforcement of the Act of 1918. The Committee received a letter from Daryl Wight – Chief of Staff to the Special Minister of State Hon. Michael Ronaldson dated 13 December 2013 which stated that '*given the number of complaints this office and other Ministers' offices have received since the AEC's change in practice, the Minister has asked the Joint Standing Committee on Electoral Matters to consider the issue of public access to the electoral roll – as part of its inquiry into the 2013 election*'. It is with this in mind that we wish to outline the reasons why these newly enforced restrictions will severely impact on people carrying out post-adoption searches who are seeking information on their parents or children.

National Apology for Forced Adoption

These new restrictions effectively counteract the promise in the 2013 National Apology on Forced Adoption¹ which states:

¹ <http://www.ag.gov.au/About/ForcedAdoptionsApology/Pages/default.aspx>

*“To redress the shameful mistakes of the past, we are committed to ensuring that all those affected get the help they need, including access to specialist counselling services and support, the ability to find the truth in freely available records **and assistance in reconnecting with lost family.**”*

These forced adoption practices were at their height from the 1950s to the 1970s, as unwed pregnant women were routinely placed in Women’s Homes and then coerced by social workers, doctors and nurses to place their baby for adoption. It has been reported that “at least 150,000 Australian women had their babies taken against their will by some churches and adoption agencies”.² There are reports women were “given large doses of drugs prior to and after the birth, often right up until they signed consent”.³ It was also common practice for mothers to not be allowed to see their baby – this was achieved by placing a pillow or sheet between the mother and her child immediately after the birth and placing the mother or baby in a separate building in the days following the birth.

The report of a recent Senate Enquiry into the Commonwealth Government’s Contribution into Former Forced Adoption Policies and Practices was released in February 2012. The enquiry found “evidence of consent was not properly taken, there was evidence of coercion and all the pressure, practices and policies have had lifelong impacts on mothers, fathers, adoptees and family members.”⁴ Many of these birth mothers continue to live with the trauma and grief of being separated from their baby under these circumstances and many adoptees are only now learning the true facts of the circumstances leading to their adoption.

It has been estimated the one in fifteen Australians could have been affected by adoption in Australia⁵. The Australian Parliament has taken responsibility and apologised for the policies and practices that forced the separation of mothers from their babies. Moreover both the Federal and State Governments have formally apologized and provided extra funding to post adoption support services to ensure that those affected receive the counselling and assistance to reconnect with their lost family member. Our ability to reconnect these lost families members has been severely impacted and often cannot occur due to not being able to access a person’s current details on the electoral roll.

National Apology to Forgotten Australians and Former Child Migrants

This change in practice by the AEC also counteracts the National Apology to Forgotten Australians and Former Child Migrants of 2009 where the Prime Minister specifically noted that:

*“Many Forgotten Australians and child migrants continue to need help in **tracing their families.** That is why we’ll be providing a National Find and Connect Service that will provide Australia-wide coordinated family tracing and support services for care leavers to locate personal and family history files and **the reunite with members of their families,** where that is possible”.*⁶

It is believed that 500,000 Australians, many of whom were also affected by adoption, experienced life in an orphanage, home or other form of out-of-home-care during the 20th century.⁷

Furthermore over 10,000 children between the ages of 3 and 14 were sent to Australia between 1912 and the 1970s as part of the British Child Migrant Scheme. They were mostly placed in institutions or with foster families, many were told they were orphans when in fact only a third were actually so; the remainder had parents alive in the UK. In 2010 the British Prime Minister issued an official apology for the ‘shameful’ child resettlement programme and announced funding to help reunite former child migrants with their families. It should be noted that these

² Sydney Morning Herald – Catholic Church sorry for forced adoption - Lisa Martin July 25, 2011

³ Releasing the past: Mothers’ stories of their stolen babies, Christine A Cole, 2008, p 4

⁴ Sydney Morning Herald – Joint call for nation to apologise over forced adoptions – Dan Harrison, 1 March 2012

⁵ Clinical Practice in Adoption – Winkler, Brown, Van Keppel and Blanchard -1988

⁶ National apology to Forgotten Australians and Former Child Migrants 16 November 2009

⁷ Forgotten Australians: A report on Australians who experienced institutional or out-of-home care as children, Australian Senate Community Affairs References Committee (August 2004)

child migrants would have had great difficulty being reunited with their families if the services were not able to access the UK electoral roll.

National Apology to Indigenous Australians

This change in practice by the AEC also counteracts the 2008 National Apology to Indigenous Australians (widely known as the Apology to the Stolen Generations). This was undoubtedly one of Australia's most shameful past practices that left an extreme impact on our country's indigenous population. It is well documented that many of Australia's

*“missionaries, teachers and government officials believed that the best way to make black people (Aborigines) behave like white people was to get hold of their children who had not yet learned Aboriginal life ways. They thought that children's minds were like a kind of blackboard on which the European secrets could be written”.*⁸

From approximately 1869 until the 1970s, many thousands of Aboriginal children were removed from their parents by government agencies and church missions; no court hearing was necessary and the reason for the Aboriginal Protection Board taking control of the child was simply 'for being Aboriginal'.

The impact of this legislation and practice was overwhelming; the *Bringing Them Home Report* tabled in the Federal Parliament in 1997 stated “nationally we can conclude with confidence that between one in three and one in ten Indigenous children were forcibly removed from their families and communities in the period from approximately 1910 until 1970. In certain regions and in certain periods the figure was undoubtedly much greater than one in ten. Most Aboriginal families have been affected, in one or more generations, by the forcible removal of one or more children”.

Aboriginal children have been severely impacted by this forced adoption practice and are often still unaware of their Aboriginality, therefore many Aboriginal people separated by this former practice need access to services and support of agencies such as 'Link-Up' in order to reconnect with lost family and their tribal homeland, and accessing the electoral roll still remains an important searching tool.

Reconnection

The Inquiry should not underestimate how important it is for adopted people and people separated by forced Government intervention to have access to information about their biological family and medical history, and the need to connect with people to whom they are biologically related. Adopted people have described living with a feeling of 'not fitting in' with their family and having the opportunity to reconnect with their biological parent can help them 'fill in the missing pieces of their life'; this is information the majority of us have and have the luxury of taking for granted.

The Committee believes that the Federal and State Adoption Apologies, plus the Apologies to the Stolen Generation and Forgotten Australian's are futile if separated individuals and support services have no effective means to trace and reconnect with family members. The newly enforced AEC restrictions have made it virtually impossible to locate a substantial number of families separated by adoption and forced Government intervention.

It is important to understand that people separated by adoption or forced Government intervention often access the support of a professional organisation in order to search and outreach the lost family member as they believe this is a least intrusive approach and their sought person's privacy and wishes will be respected; and the access restrictions to the electoral roll severely hinders the ability of these support services to provide search, outreach and mediation services.

⁸ *The Stolen Generations – The removal of Aboriginal children in NSW 1883 to 1969, Peter Read, 1981, page 3.*

The NSW Adoption Information Act of 1990, allowed parties to an adoption to search for one another. Since 1991, the Adoption Information Unit of the NSW Department of Family and Community Services has recommended the use of electoral rolls in their search guide.⁹

The Committee's members have been in contact with many thousands of people who have reconnected with family and have actively mediated in about 2000 reunions, and are unaware of anyone who has misused information from the electoral rolls or acted with disrespect in this regard. Furthermore, those who have safety concerns about having their details on a public roll can apply to be silent electors.

Searching

Searching support services often encourage and empower parties to undertake aspects of the search themselves. Whilst the tracing aspect may appear straightforward when individuals can access appropriate tools such as the Australian electoral roll and apply for Birth, Death and Marriage records, reuniting family members remains a complex and emotional task best managed by skilled and experienced adoption professionals.

The electoral roll is the key search tool used by individuals and professionals when searching for lost family members. The AEC's announcement regarding restricted access to the electoral roll has affected individuals as well as support services in searching and reconnecting family members affected by adoption and forced Government intervention.

In order to provide an example, let us suppose an adoption support service was looking for Tony Smith as a possible biological father and knew his full name was Anthony David Hawthorn Smith. Previously we would search the electoral roll to obtain possible addresses for Anthony David Hawthorn Smith and then we would write a very discreet letter to the possible parent in the hope we have found the person we are looking for.

Now that we cannot access the electoral roll our only other option is to access the online telephone directory (White Pages) which list a person's surname with an initial only. There are over 200 "T. Smith" and "A. Smith" in Victoria alone; imagine the time and effort it would take to write to these A. and T. Smith's (and other A. and T. Smith's in other states) in order to find the correct person, compared to contacting the possibly few small number of "Anthony David Hawthorn Smith" on the electoral roll. Professionals always respect the privacy and confidentiality of the people with whom we have contact. Having to write to numerous people, some of whom may be related, compromises this confidentiality.

Historic versions of the electoral roll up to 2008 are available in various locations such as State Libraries, but more recent material is not being deposited. Whilst such historic records can be of assistance in certain circumstances, this information will become less and less useful over time as the information becomes more and more outdated. The importance of access to the current electoral roll will therefore only increase in the future.

The increase of Out-of-Home Care adoptions

The Committee would also like to highlight the current NSW Government initiatives on promoting Out-of-Home Care adoption as an alternative to children remaining in foster care for the duration of their childhood. The Prime Minister Tony Abbott has supported the Minister for Family and Community Services Pru Goward, in actively promoting the use of adoption within the Out-of-Home Care sector and both view this as a positive means for children to be raised in legally recognized families within New South Wales.

In order to facilitate and progress adoption for this group of vulnerable children, and to do so in accordance with current legislation, it is critical we adequately consult with the child's birth family members. Consultation with parents throughout the various stages of planning for adoption is essential to ensure that the mistakes of past practice (which we are apologising for today) are not repeated and that parents are fully informed of their legal rights should they wish to oppose the making of an adoption order. Parents and other extended family members need to be given the

⁹ *Adoption Search Guide, What do I do now.* - Human Services, Community Services , 2010 (page 13)

opportunity to engage with service providers and discuss their views regarding case planning and arrangements for future contact with the child in question.

For many parents of children who enter Out-of-Home Care, their personal situations are that of great disadvantage, which can often lead to disengagement with service providers. Up until recent times, the primary search tool for locating parents and/or other extended family members has been through the electoral roll and many Out-of-Home Care service providers had great success in locating a missing parent or family member by that means.

A common scenario is when a father is unaware of the existence of the child if the relationship with the mother ended before the pregnancy was discovered. In these sensitive situations locating the putative father is critical to assess whether in the first instance he could be considered as a placement option; or at least ensuring that he is aware of the circumstances of his child and is given the opportunity to plan for his child's future. Not being able to contact a father in this situation will have life-long ramifications for both the father and child. Restricting access to the electoral roll severely limits agencies' ability to locate parents and family members, again we urge reconsideration of this matter in order to progress timely adoptions in the most honest, ethical and consultative process possible. Access to the electoral roll is critical to achieve this.

International Practice

Such restrictions to accessing the electoral roll are not in keeping with international practice. Our experience in searching for lost family members overseas shows that the public or services can access full name and address details on many overseas electoral rolls.

For instance in New Zealand any member of the public can access a person's name, address, age and occupation on the NZ electoral roll. The United Kingdom also has public access to the electoral roll; in fact there is even the option to access electoral roll online via www.192.com. By paying a small fee 192.com will provide details of the person's full name, address, age range and details of other occupants of the residence.

It should be noted that before the AEC changed their practice to public access to the electoral roll, the public and services in Australia were only able to access a person's full name and address but not their age or age range. These limitations still provided the public and services with challenges, especially when looking for someone like John Smith or Thomas Jones.

Additionally in other countries such as the UK and NZ, the birth, death or marriage (BDM) records are public records unlike Australia where access is again subject to restrictions. The BDM limitations in Australia made the electoral roll an even more critical search tool. This was especially the case in relation to searching for birth fathers. For example, adopted people have two birth certificates (their original and their adoptive certificates) but the majority do not have a birth father named on their original birth certificate. As a result the father is considered unacknowledged and legislation in most Australian states does not allow the adopted person to access his identifying information, despite the fact that the father is often named throughout the adoption file. As a male's name does not change after marriage, the electoral roll remains the key search tool to find a birth father's current location.

It is ironic that even despite the several National Apologies it is still easier to search for a lost family member in the UK or NZ, rather than in Australia.

Recommendations

1. We recognise that Australian electoral rolls are not a search tool from a legislative perspective, but as we believe it is important to empower people to search autonomously for information regarding their birth families the Committee respectfully requests that the 1918 legislation be reviewed to authorise public access to the current electoral roll for the purpose of family reconnection. If legislative review is not possible, we would ask what process is needed to make this a possibility.

2. If public access to the current electoral roll is not feasible then we would ask that agencies involved in reconnecting families have the provision to electoral rolls as per the Commonwealth Electoral Act 1918, section 90B, which states that 'persons or organisations that the electoral commission determines are appropriate' may be allowed access to the electoral roll without charge.
3. We would also recommend that the AEC review its policy in relation to the archiving of the Commonwealth electoral rolls at the State Electoral Commissions or State Libraries, to ensure information recorded within the electoral rolls post-2008 are held in archives for post adoption services to access.

We respectfully request your **urgent** intervention to enable us to continue to provide people separated by adopted and forced Government intervention with the opportunity to reconnect, as intended in the recent Adoption Apologies and the Apologies to the Stolen Generation and to Forgotten Australians.

With Kind Regards

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