

SENATE STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS
ATTORNEY-GENERAL'S DEPARTMENT

Group 2

Program 1.3

Question No. 58

Senator Brandis asked the following question at the hearing on 16 October 2012:

In relation to the closure of the Ethiopian Adoption program:

1. How many prospective parents had files waiting in the adoption system at the time the Department closed the program?
 - a. Of these prospective parents who had files waiting on the adoption system, what was the average waiting period?
2. Can you advise how many children were referred to the Program at the time of its closure?
3. Can you advise on what specific 'obstacles' the Department refers to in its press release, justifying the closure of the program?
4. What are the issues that make the Community Development Programs complex and challenging?
5. Can you advise whether prospective adoptive parents who paid fees to the program will have their fees replaced in full?
6. Can the Department elaborate on what it means by "fewer children in need of families because of increasing long-term care options within Ethiopia"? What are these alternative forms of care?
7. What Ethiopian officials were advised of the Australian Government's decision and how much notice were they given?
8. Can you please advise as to whether development funds that were part of Australia's adoption agreement with Ethiopia have also stopped?
9. Given it is on public record that the decision was made to close the program on April 24, why did the delegation go ahead on April 27?
10. Did the Department advise the Ethiopian Authorities of the pending closure during this delegation visit or did they give the impression that the delegation was there to finalise arrangements and confirm contracts?

11. As at April 24, what contracts were in place with Orphanages, Community Development Programs, and with government authorities such as MOWA?
12. Given the decision to close was made on April 24, why did the Department delay until June 28th to announce the closure?
13. The Bilateral agreement calls on adoptive parents to write reports etc annually, so what has been put in place within Ethiopia for the post adoption support? To whom are families to lodge their reports with?
14. What arrangements have been made for the MOWA visit later this year and how is Australia honouring the terms of the Bilateral agreement?
15. Did the Attorney General's Department give three months' notice to the Ethiopian adoption authorities as is required by the agreement?
16. Did the Department correspond directly with all prospective parents to advise them of termination of the program? If so, in what terms, and if not, why not?
17. Does the Government intend on re-opening the program in the future?

The answer to the honourable senator's question is as follows:

1. There were 27 files in Ethiopia at the time of closure.
 - a. The Attorney-General's Department is aware that files in Ethiopia may have been in-country for several years. However, the Department does not have information about exact waiting periods or the average waiting period, as State and Territory Central Authorities are responsible for processing individual adoption applications.
2. None.
3. Obstacles referred to in the Attorney-General's media release and elaborated on in the Department's website statement include:
 - a. ongoing challenges in identifying orphanages in which the Australian Government could have trust and confidence. Growing numbers of non-government adoption agencies operating in Ethiopia, and the closure of orphanages due to greater government scrutiny, have led to increased competition for referrals of Ethiopian children to intercountry adoption programs. A competitive environment such as this is not always conducive to ethical adoption practices, as orphanages can choose which agencies and programs to which they refer children, creating a situation where some may demand incentives for referrals.
 - b. stronger demands for community development projects, required by Ethiopian government authorities, to be delivered in the region from which children will be referred to the Program. The Australian Government requires community development projects funded in connection with intercountry adoption to be delivered in a way that maintains an appropriate separation between the intercountry

adoption program and the community from which the children are adopted. Appropriate separation between the Program and the community development project minimises the risk that the project could potentially be indirectly, or directly, encouraging families in the community to inappropriately relinquish their children in order to receive much-needed development assistance. A good way of achieving separation is by delivering development assistance in a different region to where Program operates.

- c. the growing use of alternative forms of care for children in Ethiopia, meaning that it is likely that there will be fewer children referred for intercountry adoption. This makes the adoption environment challenging and unpredictable, resulting in lengthening waiting times and uncertainty in the adoption process.
 - d. the ongoing financial viability of the Program, in the face of rising inflation of approximately 20-40%. Costs for adoption program essentials (such as food and accommodation) would continue to rise and prospective adoptive parents would face increasing costs.
4. See answer to Question 3.
5. Almost all fees paid by prospective adoptive parents directly to the Program at the time their files were sent to Ethiopia have been fully refunded. There are two outstanding refunds. The Department is awaiting information necessary to arrange these refunds. Prospective adoptive parents also paid fees to their State or Territory Central Authority for work undertaken to prepare their files. The decision to refund those fees rests with the responsible State and Territory ministers.
6. In June 2009 the Ethiopian Ministry of Women's Affairs (now the Ministry of Women's, Children's and Youth Affairs (MoWCYA)) released a policy document, Alternative Childcare Guidelines, outlining the Ethiopian Government's approach to alternative childcare services and approaches. Ethiopian Government officials, in discussions with Australian delegations visiting Ethiopia and more broadly (for example, at the 2012 African Child Policy Forum), have emphasised the approach taken under the Guidelines. Ethiopia is working on alternatives to adoption, including prioritising community-based care. Community-based care includes:
- a. kinship care by extended family
 - b. sponsorship care and support by volunteers and organisations
 - c. child-headed households, where children are cared for by an older sibling who is at least 15 years old
 - d. group homes where groups of children are cared for by a surrogate parent from their community, and
 - e. foster family care.

Ethiopia is also pursuing reunification and reintegration programs and local adoption.

7. Mr Peter Arnaudo, Assistant Secretary Marriage and Intercountry Adoption Branch, travelled to Ethiopia to personally advise the Ethiopian Government of the Program's closure. On Tuesday 27 June 2012, Mr Arnaudo and the Australian Ambassador to Ethiopia, Ms Lisa Filippetto, met officials from the Ethiopian Ministry of Foreign Affairs, as well as the Minister of Women's Affairs and officials from her Ministry, and advised them of the closure.
8. At the time of the Program's closure, no development assistance was being provided to Ethiopia by the Program, as no suitable community development project had been approved by the Department.
Previously, the Program had donated funds to Retrak Ethiopia to strengthen the *Choices and Chances for full-time street children* project in the Addis Ababa area.
9. The Attorney-General made an in-principle decision to close the Program on 24 April 2012 and her final decision on 12 June 2012. The Department's pre-scheduled delegation visit to Ethiopia from 27 April to 11 May 2012 (which was announced on the Department's website on 17 April 2012) reassessed the ongoing viability of the Program. The visit confirmed that ongoing challenges remained which meant that the Program could not continue to operate, and obtained information to inform the Attorney-General's final decision.
10. Neither. The delegation reassessed the ongoing viability of the Program and confirmed that the challenges to the Program's operation remained a concern. It was not appropriate to suggest that the Program might be closed, nor to give the impression that the delegation was finalising any arrangements, as a final decision had not been made by the Attorney-General.
11. A partnership agreement was in place with Family Umbrella Association (which operates an orphanage). However, although orphanage payments had commenced, the Program was unable to receive referrals of children as an appropriate community development program had not been approved by the Department and the Regional Government in order for the Program to commence operation in the region.
The bilateral agreement between Australia and Ethiopia establishing the working arrangements for the coordination of intercountry adoption has been in effect since 1994 and still remains in effect.
12. As stated previously, the Attorney-General made an in-principle decision to close the Program on 24 April 2012 and her final decision on 12 June 2012.
Following the return of the delegation from the April-May visit, the Department consulted with the State and Territory Central Authorities about the findings of the visit, developed options for closure for the Attorney-General to consider and worked with the Central Authorities to ensure that affected prospective adoptive parents were able to receive the news from their Central Authority, and appropriate support and counselling, in the first instance.
13. The bilateral agreement between Australia and Ethiopia continues to operate. As such, current arrangements continue where adoptive families provide post adoption reports to their State or Territory Central Authority, which then provides them to MoWCYA in Ethiopia through the Australian Representative.

14. On 9 November 2012, MoWCYA requested that the visit be postponed until 2013 due to other commitments.
Australia continues to encourage adoptive families to prepare post adoption reports for the Ethiopian Government, in compliance with the bilateral agreement.
15. No. Under the bilateral agreement between Australia and Ethiopia three months' notice is required if the agreement is terminated by either country. The bilateral agreement has not been terminated; therefore, the obligation to give notice has not arisen.
16. Given the States' and Territories' role in managing individual adoption applications it was more appropriate for prospective adoptive parents to be informed about the Program's closure by State and Territory social workers. The Department worked closely with the Central Authorities, providing them with detailed information about the Program and the reasons for the closure, to ensure the Central Authorities had the information they needed to provide support to affected prospective adoptive parents.
17. The Department will consider the reasons for the closure of the Program, periodically monitor and review the status of the Program and maintain contact with agencies in country, as appropriate. The Department will review the circumstances in Ethiopia in the course of its periodic reviews, and will advise the intercountry adoption community accordingly.