



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

HOUSE OF REPRESENTATIVES

STANDING COMMITTEE ON FAMILY AND HUMAN SERVICES

Reference: Adoption of children from overseas

TUESDAY, 18 OCTOBER 2005

PERTH

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HOUSE OF REPRESENTATIVES
STANDING COMMITTEE ON FAMILY AND HUMAN SERVICES

Tuesday, 18 October 2005

Members: Mrs Bronwyn Bishop (*Chair*), Mrs Irwin (*Deputy Chair*), Mr Cadman, Ms Kate Ellis, Mrs Elson, Mr Fawcett, Ms George, Mrs Markus, Mr Quick and Mr Ticehurst

Members in attendance: Mrs Bronwyn Bishop, Mr Cadman and Mrs Markus

Terms of reference for the inquiry:

To inquire into and report on:

How the Australian Government can better assist Australians who are adopting or have adopted children from overseas countries (intercountry placement adoptions) with particular reference to:

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

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Committee met at 10.39 am

BONSON, Ms Leah, Director, East Directorate, Community Development and Statewide Services, Western Australian Department for Community Development

KEOGH, Mr Colin Francis, Manager, Adoption Service, Western Australian Department for Community Development

CHAIR—Good morning, ladies and gentlemen. Welcome to the public hearing of the House of Representatives Standing Committee on Family and Human Services for its inquiry into the adoption of children from overseas. This inquiry has attracted considerable national attention. We have received over 250 submissions to date. The vast majority have been from parents and couples who wish to start or add to their families and help orphaned or abandoned children from overseas.

The committee has taken evidence already in all the other states so we are very pleased to be in Perth and to gain a Western Australian perspective. This public hearing allows the committee to meet formally with state government representatives and key local adoption groups as well as individuals. Copies of their submissions are available on the committee's web site.

At 12 noon there will be a community statement session. Members of the public, regardless of whether they have put in a submission or not, can speak to the committee for up to five minutes, to tell us how international adoptions have affected them or to give a point of view they wish to have heard. We only ask of those people that they give their first name, if they do not wish to disclose their full name, or the name of the organisation they represent, if they wish to do that. That is fine as well.

This hearing is open to the public and a transcript of what is said will be made available on the committee's web site. Anyone who would like any further details about transcripts can ask any of the committee staff here at the hearing today. I now welcome representatives from the Western Australian government to give evidence. Do either of you have any comments to make on the capacity in which you appear?

Ms Bonson—I am also the director responsible for the adoptions unit.

CHAIR—Thank you very much. We are very grateful we have your submission. Thank you for being with us today. I note you have also given us a copy of a document called *Policy for the adoption of children*; and you think that the original annexure did not come in in full?

Mr Keogh—In the copy that I saw last night, I was looking at pages 3, 5, 7 and 9 and I thought, 'I hope we haven't done this.' In case we have, I thought I had better bring along copies for everyone.

Mr CADMAN—These are replacement pages, are they, for what we received?

Mr Keogh—No. In the annexures to the submission I had included a range of documents, one of which was the Western Australian adoption policy. We may have sent you only pages 3, 5, 7 and 9 of that, in which case it will not make that much sense. It was photocopied back to back.

Resolved (on motion by **Mrs Markus**):

That the documentation provided be accepted as a supplementary submission.

CHAIR—We have received that documentation. Would you like to make an opening statement?

Ms Bonson—Firstly, welcome to Western Australia and let me say thank you for giving us the opportunity to speak at this inquiry. I am a social worker by profession and one of my responsibilities is as director of adoption services at the department. I will be supported this morning by Colin Keogh, who is the manager for adoption services and whose professional qualifications include a degree in social work and a masters in public policy. Colin has just returned from attending the meeting on the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoptions, which is held every five years. This is the first time we have sent an officer to the meeting, and that demonstrates our commitment to ensuring we uphold the Hague convention and are in the forefront of best practice. Intercountry adoption makes up the bulk of adoptions that occur in Western Australia.

In the most recent financial year, the number of overseas adoptions declined from 44 to 29, for unrelated reasons. However, the trend is one of increasing numbers. This financial year the number of children placed may approach 50. While I acknowledge that the operational aspects of adoption are, for the most part, state responsibilities, I am pleased to see that there is a growing dialogue to increase the leadership role of the Commonwealth in relation to new programs and initiatives to support intercountry adoption. We welcome this inquiry and we look forward to improvements. All authorities in Australia would like to do more when it comes to adoption. It is hoped that this inquiry may encourage a greater interest in adoption, in the plight of children who would benefit from a family home and in the need to provide better services to adoptive families.

I would like to spend a few minutes outlining some facts about adoptions in this state, and we would be happy to answer any questions that you may have. In Western Australia, we believe that we have a very good system for the delivery of adoption services in a professional and timely way. The system strives to ensure that the principles of adoption legislation are upheld. Our adoption service works with sending countries that we have bilateral adoption agreements with and that are members of the Hague convention. This is because the department is committed to upholding the highest standards of practice and principles of the Hague convention.

There are safeguards in the Hague convention that need to be upheld to ensure that parents and children in overseas developing countries are not exploited in order to illegally procure children for adoption in Australia. The position of the department is to be mindful of the ethics of intercountry adoption, even when there can be pressures from those who want to see an increase in the number of children adopted from overseas without cognisance of these ethics. I wish to highlight a few features of adoption in this state. Mr Keogh can elaborate on the system and his observations, in light of his attendance at the Hague meeting.

In Western Australia we have a process that is rigorous in determining eligibility and suitability for adoptive parenthood. This is to ensure that the children in need of an adoptive

home are placed in families that are able to meet their social, psychological, cultural and physical needs. The approval of suitability for adoptive parenthood is made by an independent committee—the Adoption Applications Committee—rather than the adoption service staff. Over recent years, the non-approval rate for applicants before the Adoption Applications Committee has been low—only about six to 10 per cent. Most people who do not continue with the process withdraw at an early information education stage. The actual rejection rate is quite low.

A recent independent survey of past applicants showed a high approval rating for process and outcome. Most applicants support the system in this state. As is the case with most things, the vocal opponents are the minority. In the area of adoptions, those happy with the outcome are often silent, especially publicly. Western Australia has low fees for adoptions—\$540 for the education session, \$750 for the first application and \$986 for assessment. Other costs are not determined by the department—for example, fees from external agencies such as DIMIA, fees charged by other countries, legal costs et cetera.

The inquiry may be interested to know that the department calculates the real cost to the department for adoption approval and placement support to be \$9,000. When costs for the adoption services unit are added, the cost comes to about \$18,000, while the total departmental cost for intercountry adoption is around \$36,000. This includes infrastructure, policy and management support, casework, placement supervision, contract assessment et cetera.

Western Australia, with about 10 per cent of the national population, has about 10 per cent of intercountry adoption. The education process is made up of three education seminars, which are run by independent agencies through a delegation, and two information seminars conducted by the adoption service. The time from when an applicant applies through an expression of interest—that is, after attending the education session—to the time when a child may be placed with them ranges from a median of 15 months for an adoption from South Korea to a median of 40 months for an adoption from Thailand. These figures have, for the most part, reduced substantially over the past few years, due to improvements in the process of application by adoption services. There are now more regular information education sessions, which allow applicants to commence the process sooner and move through the stages more quickly.

In addition, there has been streamlining of major overseas programs, especially China and South Korea. It should be noted that the time taken is largely dependent on the program that is administered by the overseas sending country. We do not control the time taken or the availability of children.

It is also important to note that there are no countries, apart from those that we currently have agreements with, that are asking us to take their children for adoption or requesting the establishment of agreements to facilitate adoption programs with them, nor are the agreement countries asking us to increase the current numbers beyond minor variations from year to year. One of the principles of the Hague convention is that children—if they need to be adopted and are legally available—should, if possible, be placed in adoptive homes within their own country. There was a classic example of this earlier this year when the tragic tsunami occurred. Although we have adoption agreements with India, Thailand and Sri Lanka, each of those countries announced that the children who were orphaned would be placed in their own respective countries. This highlights the importance of continuity of culture for adopted children, something that is, as far as possible, a requirement for adoptive parents. Issues like the act's

requirement to maintain the child's given name, unless there are compelling reasons to change it, are seen as very important to the child's sense of both self and culture.

Mr Keogh has recently returned from the Hague meeting, as I mentioned. He also visited Brazil, in an attempt to establish an adoption program with Brazil. He met with representatives of many other Hague convention countries while at the Hague meeting. Colin can elaborate further about the efforts made, but the reality is that there are constraints inherent in many countries from which we currently do not receive children for adoption. Either these constraints limit the number of children available or eligibility and placement conditions make the program unworkable for Australians wishing to adopt from these countries. The legislation does allow for licensing and accreditation of private agencies. An application for a licence and accreditation was not approved by the minister.

The claim that the department's adoption service is anti-adoption continues to be made, despite evidence to the contrary in the adoption service's behaviour. Over the years, these claims have been published in newspapers and magazines, and thereafter they have spread as a source of contention and myth. It is the department's view that the repetition of such claims has contributed to heightened anxiety amongst most applicants and possibly reduced the number of applicants. The facts do not support the assertion that there is an anti-adoption conspiracy. The Western Australian adoption service has made the process easier for people to access: there are more regular information sessions; waiting times have been cut dramatically; and administration of the process has improved significantly. More children are adopted from overseas than was the case four or five years ago. People have experienced shorter time lines, staff are more accountable and, on the whole, people are satisfied with the service.

A survey undertaken two years ago of the people who have been through the information education and assessment process showed a satisfaction rate of between 85 and 98 per cent, and improvements have been ongoing. Staff appointed to work on adoptions are supportive of adoptions. Improving the relationships with sending countries is an important goal for the Western Australian Department for Community Development. The recent contacts made at the Hague Special Commission meeting and established by visits to certain countries are steps towards investing in improvements.

In conclusion, the work of this inquiry will be successful if it identifies where improvement can be made. The identification of gaps in services will assist us to deliver better outcomes for children and families. Our adoption service supports the extension of maternity payments for adoptive parents and supports other Commonwealth measures that will reduce inequities between adoptive parents and biological parents. The Western Australian submission points out two ways in which the Commonwealth may further assist intercountry adoption. The first would be the provision of AusAID technical aid packages to sending countries and those with whom programs are likely. This aid could assist with IT systems and with other technical help with procedures. The second would be provision of regional forums on intercountry adoptions in our part of the world. Australia could assist sending countries by sponsoring such forums for the benefit of Australia and our neighbours. Thank you.

CHAIR—Thank you very much. You said that the number of adoptions has increased. Looking at the figures going back as far as 1987-88, there were 37, 36, then down to the 20s, then down to the teens. Something must have happened in 1995-96, because in New South

Wales and South Australia and Western Australia there was a lift. But it went up from 24 in 2002-03 to 2003-04 to 44. Did something happen? Was there a new policy attitude? Did new people come into the department? What happened?

Mr Keogh—In 1999 the department initiated a review of the adoption service, which I undertook, and then I was asked to manage adoptions. There was an awful lot wrong with the way in which we were working, and I do not mind admitting that. I do not think we have got it perfect yet by any means, but we certainly try to improve our service standards and our responsiveness. At that time, in 1998, 1999 and early 2000, we were in the habit of having information sessions once every three months. I think at one stage it was once every six months. It was a huge fiasco, in my view. People were asked to come to a lecture theatre, and there was a lecture.

Contrast that with now, where there are monthly information sessions that are held in a small room with about 20 people. They have access to three or four staff for several hours. There are questions and answers. It is much more friendly. There is nothing worse than coming to do something that you have been thinking about for years and mulling over and then having someone lecture you about, 'This is what is going to happen,' et cetera. The way in which we do it now is much better, but there are ways we can improve it and we would certainly like to do that. But that was the change.

We also allocated additional staff to work on intercountry adoptions. I think at that stage people were working across intercountry adoptions, local adoptions, step-parent adoptions—the whole gamut of work. It was a generic service. I put them into teams. We had an intercountry-specific team. We brought in a new team leader and he has managed to work the team up in terms of expertise and focus. We have had difficulties with staff turnover, which is always a problem in government departments. The turnover has been too high, but we have managed to gather together a body of knowledge and keep it in the team and apply it as best we can. That is the first thing.

Since 2003 we have added resources to the intercountry adoption area. In 2003 we had four people in the intercountry team and half a person working on the adoption applications committee work. There are now 5½ people working in the intercountry team and 1½ people working on the adoption applications work with applicants. The other thing we have done is to increase the payments made to assessors—and we support the assessors better. We have a team of independent assessors and they meet quite regularly.

We have tried to lift our effort, so any idea that there is a restriction is not correct. It is an area where we have added staff and added focus, and I think that is borne out by the figures. We have had a bit of a dip this year, but that is related to factors that occurred in other countries, like the tsunami, the slowdown because of the swamping of files from Europe and that sort of thing.

CHAIR—Could you explain that a bit more.

Mr Keogh—A lot of European countries accessing sending countries are basically sending many more files to those countries than the countries want or can deal with. They do not have the ability to put more staff on and so they have to work through all of those additional files, evaluating those applications. That tends to slow down the matching process. That has occurred

in the Philippines, Thailand and other places. Certainly in South America it has occurred in a big way.

CHAIR—Is that right?

Mr Keogh—Yes. It is referred to as ‘swamping’ by the UNICEF people. The sending countries are overwhelmed by their workload and cannot manage to get to the matching part of the work because they are evaluating these new applications.

CHAIR—I see.

Mr Keogh—At the Hague convention meeting the sending countries made quite a plea to the receiving countries, asking them to moderate their demands.

CHAIR—Not because there are not children in need but because they cannot process them?

Mr Keogh—They cannot process them. There is a bottleneck.

CHAIR—Did they ask for help at all with the processing mechanisms?

Mr Keogh—Some did, and some took the view, ‘Well, it’s really the sending country’s problem, so we’re not going to do anything.’ Others took the view that if they were provided with better information they could feed that back to adoptive parents. Sending countries were then saying, ‘Well, we don’t have the resources to gather all that data very easily and provide you with it when you would like it.’ There are real resource issues.

CHAIR—Were any of the sending countries amenable to having help with their processing from receiving countries?

Mr Keogh—Some were. Guatemala made a strong plea for votes of support for Guatemala to institute legislation in line with the Hague convention, because their constitutional court had overthrown their laws and the government was having to reintroduce legislation to have laws in place that complied with the Hague convention. There is quite a gamut of factors that people are struggling with.

CHAIR—How many overseas adoptions did you have for this year?

Mr Keogh—This year we had 29 adoption orders from overseas.

CHAIR—Is that this calendar year or this financial year?

Mr Keogh—This financial year.

CHAIR—That is down from 44 for the previous year?

Mr Keogh—Yes.

CHAIR—In that previous year you took 16 from South Korea and 10 from China, three from Ethiopia, three from Hong Kong and five from India. This swamping does not seem to affect China. They seem to be able to cope. What about South Korea?

Mr Keogh—South Korea has a quota on the number of children that they will allow out of the country each year.

CHAIR—And they really only like us and America, don't they?

Mr Keogh—We have a program with an agency there, yes. The quota is controlled by their immigration department, not by their adoption authorities. That is a political matter. From Korea we had 10 children, but there were 16 orders. There is always a lag in the placement of a child and then the order coming, so although we had 16 orders in that year we had 10 children placed. In this last financial year we had 10 children placed.

CHAIR—In the case of China you can count them automatically because the adoption is already through, isn't it?

Mr Keogh—Yes.

CHAIR—I am comparing you with South Australia, for instance. In 2003-04 you took 10 and South Australia took 22. This is in that same year. And from South Korea, South Australia took 25 and you took 16. They were using an NGO in that year, weren't they?

Mr Keogh—Yes. It is likely that those 22 were orders rather than placements. That table, I think, shows adoption orders finalised.

CHAIR—These are placements?

Mr Keogh—Yes, but they are adoption orders finalised rather than the actual number of children who are placed within that calendar or financial year.

CHAIR—One other question: how many domestic adoptions were there in Western Australia last year?

Mr Keogh—Four.

CHAIR—How many children in foster care?

Mr Keogh—In Western Australia?

CHAIR—Yes.

Mr Keogh—In pre-adoptive care or in foster care?

CHAIR—Pre-adoptive care and foster care.

Mr Keogh—In pre-adoptive care we had 15 or more children and that resulted in four adoptions.

CHAIR—What happened to the others?

Mr Keogh—The others went home with their parents.

CHAIR—What sorts of homes did they go home to?

Mr Keogh—To their parents—to the parents' home.

CHAIR—How many foster children were there?

Ms Bonson—There were approximately 2,100 throughout the state. They are the state wards. There is a mix of wards and non-wards, and there are children in care, foster care and general foster care—or they could be with relative carers.

Mr CADMAN—Can we pursue that a little. Have you done any assessment looking at the interests of the child as the prime driver in all of this? It seems to me that changing homes in the foster care situation often produces a second-rate outcome. That is a subjective statement. I do not know whether it is true or not. Can you tell me if it is true?

Ms Bonson—Because adoption is separate to children in care and the foster care service, we do assess people. All our carers and relative carers go through very stringent training. They have police clearance and there is mandatory training for all our carers. I do not think we would be quick to move them back home, but we would encourage the families, as part of the care plan, to improve their situation at home.

Mr CADMAN—My point is that changing home after home after home, rather than the stability of adoption, may be a very uncertain process for some children. I am not suggesting they move back home.

Ms Bonson—No.

Mr CADMAN—I accept that you have made good decisions as to why they should not be at home.

Ms Bonson—The adoption policy in Western Australia treats care and adoption as two separate things. There is applying for adoption, and there are children in care. We do not automatically assume the children in long-term care are eligible for adoption, because they still have families that they have contact with.

Mr CADMAN—But they could still have some contact even if they were adopted, couldn't they?

Ms Bonson—Absolutely. Currently there are two systems.

Mr CADMAN—Would a study of that type be worthwhile, because my impression is that in every state a huge number of children are in foster care? You are no different to anybody else. But it appears at the end of that period, when they reach say 16, many of them are off doing their own stuff. They become quite independent long before they really are equipped to make decisions on their own, whereas in an adoptive situation generally that parental contact of adoptive parents will continue for many years.

Mr Keogh—A new act has been proclaimed or will come into effect in January of next year: the Child and Community Services Act. It will make provision for permanent care orders and also children who are likely to be in long-term care. Then the carers will be assisted by the department to approach the Family Court for a permanent care order.

Mr CADMAN—I do not know how many care orders you would get in that situation but it would seem to me that, for people providing that care, you are asked to take every responsibility and adopt a parent-like approach.

Mr Keogh—Yes.

Mr CADMAN—But you can have that interrupted at any point.

Mr Keogh—Actually I said it was the Family Court but actually it will be the Children's Court. Sorry for that. It will be the department that will take the action to initiate the order.

Mr CADMAN—But from the parents' point of view, we have not got a clue how you think or when you are likely to intervene.

Mr Keogh—Sorry, how do you mean?

Mr CADMAN—As a parent.

Mr Keogh—Of whom?

Ms Bonson—Of the child in care.

Mr CADMAN—One day we could be responsible for this brother and sister—for their schooling, feeding, clothing and for building a relationship that we regard as a long-term and permanent relationship—only to have it interrupted, almost on a whim.

Mr Keogh—I do not think the department would intervene in a care order after it had been made.

Ms Bonson—Approved by the CEO, yes.

CHAIR—But these are children who are fostered.

Mr Keogh—Yes, and are likely to retain—

CHAIR—There are plenty of examples of children who get moved on and on and on.

Mr CADMAN—You are talking about permanent care?

Ms Bonson—Permanent carers, under the new legislation.

Mr CADMAN—It seems to me to be in a neverland where there is no certainty for anybody.

Mr Keogh—There would be certainty until the child is 18.

Mr CADMAN—I understand the intention but there is still that horrible shock that somebody may come along and out of the blue just say, ‘Come back home.’

Mr Keogh—They will not have standing in the court.

Mr CADMAN—I thought you said that the court process is there available to them.

Ms Bonson—It will be with the new legislation—the parenting orders, which again are based on assessment. There is a small percentage of children who we recognise will not go home but, then again, that is at the approval of the CEO of the department. They make that recommendation for that order to be issued and that will come into effect on 1 March. Currently the system where all children in care will be placed with general carers, foster carers and relative carers will still run.

CHAIR—That is the whole point. This is why people say there is an anti-adoption attitude—because the whole concept of adoption being a good outcome for the child has been overturned and there is this concept that continual contact with the biological parent, no matter how bad, is better for the child. I know of a case here in this very state, involving two children whose biological mother is a drug addict. The child loathes seeing the mother but that is forced upon the child. It seems to have swung too much the other way.

We have heard about concepts from other parts of the world where the biological parents may be given two or three years and, if they do not get their act together, there is an embargo and they can never intervene again—that is it, finish. So the target is certainty. When the children grow up they can go back and have a look and see if they really like the drug-addicted parents or whether they say, ‘That’s a way of life I want nothing to do with.’ There does not seem to be that available here. Open adoption orders mean there is still intervention, and we have actually heard evidence from many parents who are adopting from overseas that at least with an overseas adoption they become the parents. They are not denying the children the right to find out about their antecedents or whether they have any extended family, but they are actually running the family. I have asked the question, ‘Did you think about domestic adoption?’ They say, ‘It’s hopeless anyway.’ ‘Did you think of fostering?’ ‘Yes, but I couldn’t give up a child after the attachment.’

The other thing that seems to be happening is there are not enough foster parents available for all the children that are being pushed into the system. We have become aware that in two states they are now placing children with same-sex couples. That is a pretty big step. What is the situation here?

Mr Keogh—In terms of adoptions, we are called upon to apply the adoption act. The government has decided this area is a matter for child protection and is covered by the Child and Community Services Act. They have looked at this matter, and it is not the same situation that applies in the US or Canada or England, where the state has intervened in the family and dispensed with parental authority in the ways in which they have in those countries. Western Australia has not moved that far as yet. Whether we do in the future, I cannot say. That is a matter for the government.

CHAIR—In a couple of jurisdictions there is starting to be a rethink—they are starting to see that this business of having these children in neverland is bad policy and that we have had bad outcomes. There does not seem to be any real definitive appraisal of how people think about things. It is just, ‘We think this is a good thing, and that is what happens.’

Mr Keogh—There was a recent study done in Scotland and another in England. The reports from both those studies have been published recently. The United Kingdom has gone down the route of removing parental responsibility. They had 78,000 children in care and 4,000 of those children were adopted. The government has not gone down that route here. It has gone down the route of permanency of orders. They will come into effect in March.

Mr CADMAN—Professionally, have you had a look at what they are doing in the UK?

Mr Keogh—I have spoken to people there about it.

Mr CADMAN—What is your impression? Does it seem a sensible process? It would have to be carefully thought through, I would imagine.

Mr Keogh—It is a very logical process, but it takes much longer than was anticipated. Adoptions from care can take up to three years from the time the decision is made, and the child is caught in that period, so it is no quicker. It is much more resource intensive. The government has really been driven by the divorce laws in the UK, which require state funding for reapplication. If a couple split and one party does not have contact with the child or fails to meet their—

Mr CADMAN—Yes.

Mr Keogh—Then the party can take the other party back to court and say, ‘Why don’t you honour the agreement?’ That is funded by the state. The government in the UK has looked at that and said, ‘My goodness, there’s an open-ended chequebook there,’ and so they have changed the law to tighten that up. That is why they have gone down this route, in part. It is not so much about the focus on the child but it is concern about their cash flow. That is my view, anyway.

Mrs MARKUS—Has there been a provision in any other legislation previously for permanent care orders to be arranged?

Mr Keogh—In Western Australia?

Mrs MARKUS—Yes.

Mr Keogh—No. The model is implemented in Victoria, and has been for about 10 years, and I think—

Mrs MARKUS—The ACT as well.

Mr Keogh—New South Wales is going down that route as well. They have not suspended parenting responsibility.

Mrs MARKUS—In one or two states, from memory, there is also a provision in the legislation in some circumstances, where permanent care orders apply, for adoption to be recommended. Will there be provision for that in this new legislation in Western Australia?

Mr Keogh—No, it is not in the new legislation. Provision already exists in the Adoption Act for a carer who has the care of a child for a three-year period to approach the Family Court for an adoption order. We have had carer adoptions since 1994 and those are represented in the figures.

CHAIR—I think the question was: if someone has permanent care orders, can they then apply for an adoption?

Mr Keogh—There is nothing to prevent them.

Mrs MARKUS—They would fall under that same legislation that you just mentioned?

Mr Keogh—Yes.

Mrs MARKUS—Can you explain how the Adoption Applications Committee works and tell us a bit about the membership—how it is decided and who forms the membership.

Ms Bonson—I can talk to that, as the chair of the Adoption Applications Committee. We made it independent and sought expressions of interest. In terms of looking at the focus being on adoption for the child, we were looking at people who could bring that wealth of knowledge and experience to the committee, so we were looking for people with an early childhood background, with teaching, with psychology—any experience in that area. We received applications, did some assessment and then put them up for recommendation to the minister.

We have four independents and four staff members, with myself as the chair. Being of Aboriginal and Torres Strait Islander background, I bring that cultural component to the discussion. We have a rep in our department who is the senior adviser for culturally and linguistically diverse backgrounds, so she also brings that knowledge around cultural continuity. We have a senior adviser from the psychological service of the department, and Colin is the manager for adoptions. Those are the departmental reps.

We have Margaret van Keppel, who was involved in the review of adoptions—she is a longstanding independent member, with a background in clinical psychology; Deborah Foster-Gaitskell, who also has a psychology background; Anne Molloy, who has an early childhood and parenting background; and Helen Moschini, who has a primary school and early education teaching background. That is the make-up of the committee.

Mrs MARKUS—Thank you for that. Before an order for adoption has been finalised, a report goes to the Family Court. Could you explain that process?

Mr Keogh—There are a series of home visits that the members of the intercountry team undertake on a monthly basis. There are six of those over a six-month period. I think in the eastern states' jurisdiction, it is usually 12 months, but there was some concern in the eighties that that period was too long so it was reduced to six months in Western Australia. They visit the family. The main focus is on supporting the family and the integration of the child to the family. We are keen to look at things like accessing support, accessing services if they are needed, how they are getting on, the developmental stages of the child and those kinds of things.

At the end of that period, a report is prepared for the Family Court. The matters that are reported include: the background of the parents, the background of the child, how the child came to be adopted, where the child was adopted from, whether the parents have adequate means to support the child and whether there is a parent-child bond. That is set out in the act and is called a section 61 report.

Mrs MARKUS—Would you have instances where it is reported, for instance, that bonding has not formed or attachment has not happened, or are they fairly rare?

Mr Keogh—If there are issues of that nature that arise, we would certainly talk to the family. Rather than say, 'Look, this isn't happening,' we would look at ways in which we could improve that situation for the family. Often, if they are struggling, you do not want to take the child away. That is not the issue; it is about how you can make that a better family home for that child. We do whatever we can to support the couple. In one instance where that was the case, we got a local psychologist to work with the family for some months, so the period was delayed.

Mrs MARKUS—Excellent!

CHAIR—What level of risk do you accept in returning a child to its biological parents?

Mr Keogh—In child protection?

CHAIR—Yes.

Ms Bonson—We have a very stringent assessment process. Every child that comes into care has a care plan and there are certain conditions that parents have to meet.

CHAIR—What if both parents are drug addicts? Would you return the child to that home?

Ms Bonson—Not until we were assured that they had addressed their addictions.

CHAIR—What does that mean?

Ms Bonson—We would probably ask them to get drug counselling and run urine analysis testing on them quite regularly—

CHAIR—Does that mean you require them to give up drugs—

Ms Bonson—Absolutely.

CHAIR—or do you let them go back into the home with the parents still as addicts—for instance, if they are on methadone?

Ms Bonson—I cannot recall situations where that has happened. If we were confident enough and we had assessments from the agencies that were giving the treatment, we would take those into consideration, but it is not a given. It can be a long process. We always have reunification as the goal of a case, but that may take more than three or four years, so we would look at trying to encourage reconnecting the child. We would have to do it on a case-by-case basis, but we would take these things into consideration.

CHAIR—So you would send a child back to a dysfunctional family?

Ms Bonson—Not unless we were quite satisfied that that child would be safe and that there was no further risk of harm to the child.

CHAIR—There was a very public case in New South Wales recently, where a child died as a result of being sent back—and that is not an isolated case.

Mr CADMAN—Can I just probe that a little, please. You have no capacity then to insist, say, on a drug addicted parent going into a diversion program as one of the conditions for the return of children?

Ms Bonson—It is a big condition of the requirements of the parents for us to even consider—

Mr CADMAN—You can issue an order that states that?

Ms Bonson—It is not a formal order, it is not a legal order but it is a requirement that they have to attend—

Mr CADMAN—The trouble with that process is that it is never reassessed and a parent can come back and say, ‘We really are trying,’ and you can say, ‘We will give you another chance if you really are trying.’ Something more formal requires rigorous testing.

Ms Bonson—It is a requirement that they have to show evidence that they are addressing their drug addiction. It is worked out on a case-by-case basis.

CHAIR—But how do you deal with the fact that, as an official in a government bureaucracy, you are dealing with parents who are committing a crime in the use of those drugs and you are not reporting them to the police for prosecution? How do you deal with those difficulties? You are almost aiding and abetting.

Ms Bonson—Generally we do report all incidents where we feel that a child is going to be harmed by someone.

CHAIR—No, but somebody is there who is a heroin addict. They can be collapsed, needles hanging out of their arms. That is a criminal act.

Ms Bonson—I might take that on notice because I am not sure how the police would operate or receive referrals just on drug overdosing or suicide attempts. We look at it as a health issue, with referral to a health service to address that problem of child protection.

CHAIR—It is not a health problem. It is a legal problem. It is illegal and we get all this fudgy language. We say, ‘It’s a health problem.’ It is not a health problem. It is a legal problem. It is illegal.

Ms Bonson—What I am saying in terms of the justice system is that I will have to take that on notice and follow that up.

Mr CADMAN—We really need to test this. This is significant for the whole country. We are not having a go at Western Australia or you personally. We need to understand it. We are not professionals, or two of us are not. We are professional in the work that we do, but two of us are not professionals in your area. It seems to me that you have moved from the best interests of the child to doing no harm to the child, and I think there is a big difference.

Ms Bonson—Our focus would always remain the best interests of the child.

Mr CADMAN—But your words are consistently, ‘The child is not going to be harmed’. There is a big difference in that attitude to the child when you compare it with a policy promoting the best interests of the child. It seems to me that you have shifted in outlook—and you are not alone in this—from what is best for the child to what will accommodate the parents.

Ms Bonson—I think we would probably balance that. As I said, we would always try to encourage the children to return home, but that is not done until after quite a vigorous assessment—and we do have child protection workers in that field to make assessments around whether the child should be returned. If there is going to be continued harm, we will not return the child.

Mr CADMAN—I guess we are trying to establish something in a difficult area. An authoritarian interventionist approach can be damaging to families—as compared with what is truly in the best compassionate interest for the child now and in the future. That is not an easy thing.

CHAIR—A child being brought up in a home that contains drug addicted people is not going to have a chance. This was the headline in New South Wales in the last two weeks. There were the parents, stoned and out cold, in the street, overdosed on heroin and there was the baby, left at Camden. We are not going to get a straight answer on what will happen to that baby. Here is another one: There is a pregnant mother who is an addict. What chance does that child have? It will be born an addict. What happens to those children in your system, in that circumstance?

Mr Keogh—Are you asking would they be automatically referred for adoption?

CHAIR—No, I am asking would they be returned to those families?

Mr Keogh—I do not know the cases, but certainly one of the issues is around removing the child from the family—from the parents. It certainly provides a modicum of safety for the child

in the immediate term, but the kinds of questions that need to be asked include: 'What is the family system involved there? How functional or dysfunctional is the wider family? Should the child be cared for by an uncle, by an aunt or by grandparents?'

CHAIR—That is fine, we have no problems with that.

Mr CADMAN—In Indigenous families, that is great. In Indigenous families that does work, I know.

CHAIR—And it can work in non-Indigenous families too—where a grandparent will take over responsibility for the child and a solution is found. But where you have a child in that situation the policy of saying, 'No, we must keep up the biological contact at all costs,' logically, to me, is a policy that is not in the best interests of the child. But all policy statements say it is in the best interests of the child. It is a conflict of interest.

In fact, it could well be better if we said, 'You have so many months to clean up your act. We will keep the child in respite care or foster care for that period; but if you haven't cleaned up and you are not absolutely okay, then the child can be relinquished and can be adopted'—rather than being stuck in fostering where it can be moved on and on and gets no chance anywhere. That is why people say that the policies are anti-adoption, because there is another policy which overrides adoption all the time. That is why in New South Wales the figures show 24 domestic adoptions occurring, with 105,000 children in out-of-home care. That is mind-bending—and then you wonder why you have a crime problem with youth. What chance do they have?

Mr Keogh—I think 2,000 children in care does not quite compare with that arrangement.

CHAIR—No, it does not.

Mr Keogh—There are two million people here. You would think they would have 6,000 in New South Wales.

Mr CADMAN—I know you have been to this international meeting. I would like to understand a bit about what goes on there, because we have not heard anybody with recent experience. We have heard them but we have not pursued it. Do all states attend all meetings?

Mr Keogh—No, and this was the first time that Western Australia sent a representative. The invitation goes to the central authority in Canberra, and the central authority advised us that this meeting was coming up and said that it would be a useful experience to go along and to observe and to learn from that. That was the issue. A number of states asked to go but were not able to get permission to go. I sought permission and the minister agreed to that.

CHAIR—Your minister?

Mr Keogh—Yes. This was the second special commission on the Hague convention and there was a review of the articles of the convention. The mechanism this time that they used to get at those articles, if you like, to effectively review them, was to review a draft guide to practice on the implementation of the Hague convention, which was drafted with the assistance of Australia and other countries about 12 months ago. This was tabled at the meeting and was reviewed. In

going through that guide, we effectively reviewed the Hague convention clause by clause, so this document, which is about 94 pages long, will be a guide for those countries joining the convention and those that have already joined the convention and are looking to flesh out, if you like, the articles around the convention—the principles, the standards, the best practice. It should be a great help to countries like Guatemala—which has ratified the convention in name but does not have the laws to back up that process. It does not have the infrastructure to put in place an appropriate adoption mechanism.

Mr CADMAN—How about countries like the United States which have signed but not ratified?

Mr Keogh—Yes.

Mr CADMAN—Were they involved?

Mr Keogh—Yes. The United States was there. They had a very high level delegation. The situation in the United States, as I understand it, is that they have drafted their regulations and once the regulations are promulgated they will be in a position to ratify the convention, so some time maybe later this year or early next year they will be in that position. The material is with their congress at the moment and, once that has passed its period of time and they have overcome any objections, they will move to ratify.

Mr CADMAN—It seems strange from the outsider's point of view that everybody is so precise in the Hague convention but over here we are doing lots of deals on bilaterals where there does not appear to be anywhere near the international rigour that is imposed through the Hague. That seems to be inconsistent. We can do deals with some pretty ordinary countries, if you look at their political and—

Mr Keogh—Are you talking about the United States here?

Mr CADMAN—Not necessarily. I am talking about Australia being involved heavily in the Hague process.

Mr Keogh—Right.

Mr CADMAN—We have agencies in Australia seriously considering that and the way in which it is applied and the details of it and how important that is, but then Australia has all of these bilateral arrangements with countries that are pretty ordinary in the way in which they do things.

Mr Keogh—The bilateral arrangements were in place prior to Australia joining the Hague convention. They were in situ when the convention came along and so the decision was made to continue those bilaterals and then to review the bilaterals. Because it is a cooperative venture there is no carrot and stick in this business and there are no penalties, if you like. Countries obviously have to move through the journey as best they can within their existing resources and legal mechanisms, so it is very much cooperative—this is an ideal which you move towards. The convention tends to be in those kinds of terms, rather than taking a 'We are really here to say you have broken the law' approach.

For instance, Hans van Loon, the secretary general of the Hague conference, went to Guatemala in May to meet government officials there and talk through some of the difficulties they were having with their legal structure. When they came to the convention, they thanked him very much for his efforts in attending.

CHAIR—We can recognise, obviously, those countries from which there are likely to be children in need of new homes and new parents. Those are poor countries, basically, where putting up an infrastructure to ratify and comply with a convention is pretty low on the priority scale.

Mr Keogh—The easiest thing to do is to pass the law and to say, ‘We are here on the world stage.’ There are other benefits that accrue.

CHAIR—But to have an infrastructure in place—

Mr Keogh—To put in place the infrastructure and then to drive it all the way down is expensive, time-consuming and not easy, especially when there are forces at work that would like to counter that because they have vested interests. My understanding is that intercountry adoption is the second largest item on Guatemala’s GDP.

CHAIR—Is that right?

Mr Keogh—That is what I have heard.

Mr CADMAN—For instance, I do not know how you can strike a satisfactory arrangement with a country like Ethiopia.

Mr Keogh—Because of the laws they have in place?

Mr CADMAN—Because of the social disruption, the internal conflict and all that sort of stuff. How do you find an agency you can rely on or a process where you are certain that the children who are adopted into Australia are coming from a properly assessed regime, rather than having been hijacked or kidnapped or whatever? How can you do that in a country like Ethiopia? It is beyond me.

Mr Keogh—They have in place a legal system and the adoptions are operated and determined by the court in Ethiopia. It is a fraught situation in terms of the civil unrest and the potential for civil war at any time, but it is existing and working in that legal framework at the moment so I cannot say what would happen on any day. We know that the law is applied and certainly they do watch what they are doing in the courts. It could be better, there is no doubt about it. We have some concerns, but nailing those down is not easy.

Mr CADMAN—Are those issues discussed at the Hague conferences?

Mr Keogh—They certainly are in the meetings in between the meetings.

Mr CADMAN—That is natural, because I suppose everybody is dealing with bilaterals anyway.

Mr Keogh—The question you asked initially was, ‘How can we have these bilaterals?’ We have them because they were there and we have reviewed them and we will continue to do that until those countries adopt the standards of the convention and put in place the process.

Mr CADMAN—I see we have taken some out because they do not comply or are too difficult.

Mr Keogh—Yes.

Mr CADMAN—I am happy with that. Thank you.

Mrs MARKUS—Do you meet with the other states when they meet regularly?

Mr Keogh—Yes. All the central authorities meet under the auspices of the Commonwealth Attorney-General’s Department. We meet each six months and try to progress the implementation of the Hague convention and also look at the bilaterals and any other issues that we are trying to grapple with. The immigration department sends along a representative from time to time. Foreign Affairs attend. The Australian Institute of Health and Welfare come along to keep abreast. We reviewed the data collection last time. We do meet regularly.

CHAIR—It is a very informal structure though, isn’t it? The central authority for Hague is the Commonwealth Attorney-General’s Department.

Mr Keogh—Yes.

CHAIR—There is an MOU. Having looked at the documentation, somehow Queensland has forgotten to actually sign it, but they presumably turn up?

Mr Keogh—They do.

CHAIR—They do not report anywhere really—publicly. We do not see any formal reports.

Mr Keogh—Through the welfare administrators they report through to the ministers.

Mrs MARKUS—The state ministers?

CHAIR—We have access to the minutes and so on, but there is no formal reporting structure. It is very ad hoc.

Mr Keogh—No. It reports back through the state—through my director-general through to the welfare administrators. Then motions are put to the ministers. To what extent public servants feel that they can, in between reporting back formally and then having some determination, put those minutes on the web or that sort of thing—

CHAIR—No. They are not on the web. They come to us. We have got less than one full-time person at the federal level looking after this highly important area. That seems to me to be very lackadaisical.

Mr Keogh—They have had a high turnover and they have had difficulty in maintaining that continuity. The continuity issue is important because you do not get a full grasp of the issues. I have been at this for the last six years and—

CHAIR—It seems the Commonwealth's attitude is that they have said, 'We have signed this thing. You people who are doing it, just get on with it.' It is very casual.

Mrs MARKUS—You seem to be a man who thinks structurally and very systemically and looks at what resources are required. If you were to look at how that works now and in an ideal world you could make some suggestions, do you have any comments about how you would see the Commonwealth contributing to improving the structure and systems and resources for that?

Mr Keogh—Leah has indicated the two suggestions that we had in our submission about the Commonwealth providing some leadership in terms of a national role. One way would be to seek AusAID type packages for countries that we work with so that instead of being people who just take we would be people in partnership with these other countries.

CHAIR—You mean helping them with processing or in general?

Mr Keogh—I think they know what they are doing but it might be that their systems could be improved. Unlike us, they do not all have computers. We have systems for data collection, data processing and systematically gathering information. Because of the 100 years of experience we have had in providing information back to people who were adopted in the early part of the 20th century, we know the kind of depth of information that you have to gather.

Providing that sort of information to countries like Ethiopia and the like can be a great help to them because they do not see what is going to happen in 20 years when these adoptees might say, 'Hang on, I'd like to know where I was born,' or, 'What was the name of the police station that I was turned in to? What was the name of the police officer who took me in? Could I have a look at the slip of paper that was given to the orphanage by the policeman, that had a date on it and a name?' They are little bits and pieces that we can provide a lot of very detailed information about in an AusAID package. Vietnam is interested in Australia, so we would be well placed to help Vietnam.

CHAIR—You are very interested in doing that?

Mr Keogh—Because they know we have Vietnamese people in Australia.

CHAIR—Yes, indeed.

Mr Keogh—The people there have been to Australia and they know about Australia. They have expressed interest in Australia, so an AusAID package to assist Vietnam and its decision to join the Hague convention might be a help, but it is not something we can demand. We can offer it.

Mrs MARKUS—You are also suggesting that the Commonwealth needs to take a lead role in identifying which countries we need to work with to build that relationship?

Mr Keogh—That is their area: foreign affairs and relationships.

Mr CADMAN—Absolutely true.

Mr Keogh—That is why we have a nation.

CHAIR—If you wanted to follow up on a particular file, maybe there should be some formal involvement at the embassy level.

Mr Keogh—I recently was in Brazil and I found the Australian embassy fantastic.

CHAIR—But again it is informal, isn't it?

Mr Keogh—I was there on behalf of the other states and territories, asking questions, and they could not do more for me. Anything that I wanted, they were tremendously helpful.

CHAIR—They are good people.

Mr Keogh—They know about adoptions because they have been in other jurisdictions in other countries. They have seen the process come through. I did not have to tell them anything about it. They knew what we were talking about. That is a great help. They are knowledgeable, they are experienced and they are in a different situation. When you say something they reply, 'I know what you're talking about there.' It takes a long time to come up to speed on these matters but the people there were informed and did not need much information at all. It was good. The Commonwealth has all that expertise in some places but certainly the Commonwealth could provide that kind of initiative, that leadership. Of course you need people to be there gathering the information and watching the job.

I think the Commonwealth has it in mind to perhaps sponsor a regional forum in our area of the world. If that were to occur then that would enhance the position of Australia. We would certainly be required to sponsor some members of those countries' organisations to come to such a forum because they do not have the resources to do that. It is at those kinds of interchanges that you get these questions about post-adoption support, the follow-up by the families who need information, how we are assisting those families, the native and homeland visits that Thailand, South Korea and the Philippines are having.

CHAIR—South Korea is very focused on maintaining a—

Mr Keogh—They are tremendous things.

Mrs MARKUS—Which means we could have an influence in the governance of the adoption area in some of those countries and strengthen their processes and development.

Mr Keogh—We can support many of their efforts.

CHAIR—The purpose of the forum would be to assist them with their processes?

Mr Keogh—Yes, and people travelling to those forums hear about initiatives in law and initiatives in procedures that have occurred in other countries. They say, ‘That doesn’t sound so hard.’ A comment was made to me by one Ethiopian person who said, ‘Look, I think we could do that.’

CHAIR—I do not know how we would get Ethiopia into our regional forum.

Mr Keogh—No.

CHAIR—Guest status.

Mr Keogh—South Africa has it in mind to have an African forum.

Mrs MARKUS—It is a fair comment to say that we should focus on our region. I want to ask a bit of a side question here. In some states there has been the model of an NGO providing the assessment and adoption services. The authority still has rested with the state government department to make the final call, ‘Yes, adoption approved.’ What would you see as the strengths and weaknesses of an NGO being involved in that kind of model?

Mr Keogh—Resourcing is the issue—and expertise. Adverse comments were made about central authorities at the Hague convention meeting—how some central authorities were ill-preparing applicants for their parenting process. Similar remarks were made about NGOs. It is not whether it is an NGO or a government department; it is about the level of expertise and the level of resourcing. When we unpack that in private conversations it is really about what the depth of experience and of staffing is and how they work with people. Those are the issues, rather than whether it is this or it is that. You have to have accountability, you have to have transparency and you have to have mechanisms for determining these decisions. We have those in the legislation, so the mechanisms exist already. That is not an issue. It is about how well that can be done in a particular area.

Mrs MARKUS—Or whether mechanisms can be improved or added to.

Mr Keogh—We all want to improve things. Sometimes you can see how you could improve things but you cannot do it because you just do not have the wherewithal.

Mr CADMAN—I believe that you ask for a pregnancy test just prior to the process being finalised. Is that right?

Mr Keogh—That is right.

Mr CADMAN—Don’t you think that is a little strange? Under Commonwealth discrimination laws you would probably go for a row on that one.

Mr Keogh—Our focus is really on the child who is about to be placed in that family situation. That child is in need of a family home.

Mr CADMAN—Don’t you think it is a matter for the parents?

Mr Keogh—Certainly it is a matter for the parents. It is also a matter for the state because we are making that decision. We do not make that decision in other families. We have a duty of care for the child we are placing.

CHAIR—We had this discussion yesterday with the South Australian government. They do not require a test but require a statement. Only you and Victoria require a test, which is pretty invasive stuff and which we think is pretty outrageous. The bottom line is this: the question I ask is, where is the great volume of evidence which shows that a biological child being born at the same time an adopted child is being received is counterproductive to the interests of the adopted child? Where is the great body of evidence? It seems to be, ‘This is what we think and we’re going to impose it.’ They could adduce no evidence. I would be interested to see if you say you can.

Mr Keogh—I have seen no reports, for that matter. If you have a look through the documentation I forwarded, you will find that it was one of the recommendations of a report in the eighties.

CHAIR—That is what I suspected. There were bad practices going on then.

Mr Keogh—It is one of the recommendations that was part of the report into uniform national minimum standards in adoption. That was produced by the Standing Committee of Social Welfare Administrators in March 1991.

CHAIR—Yes, but we were going through all sorts of angst about stolen children and all sorts of things in the eighties. There is no body of evidence. Logically you would have to say that nobody could cope with twins or triplets and you would have to split them off and give them to somebody else because their parents are somehow incapable of handling two or three children at once. I just think it is the most arrogant attitude that is being imposed on these people. Once a child has been placed and they have the photograph of the child, they really bond and form an attachment to that child. That child may even be of an age where they are aware of who they are coming to. For you to say, ‘No, sorry, you’re pregnant, that child is dispensed with,’ and it is gone and does not come—

Mr Keogh—We would not make that placement before we knew.

CHAIR—What happens if they become pregnant the moment they are about to go off and pick up the child?

Mr Keogh—In the other country?

CHAIR—Yes.

Mr Keogh—We would not know it at the placement time. The law says that they have to supply a certificate from a doctor to say they are not pregnant.

CHAIR—I think it is outrageous, I really do. As I said, logically you would have to say, ‘You can’t have twins,’ and, ‘You can’t have triplets.’

Mr Keogh—The focus is on the child who is to be placed.

CHAIR—No. Whenever there is a hard question, we get the answer—

Mr Keogh—But it is, isn't it?

CHAIR—But it is not. You are making an assumption that for some reason having a biological child is against the interests of the adopted child. We have had plenty of evidence of families where there are biological children and adopted children and there are very happy outcomes. This demarcation line that you have and Victoria have, to me, is just appalling. A man made this decision, if I am not mistaken.

Mr Keogh—Must have!

Mrs MARKUS—The concern that we have had raised on a number of occasions relates to what happens in the instance of an older child from overseas who has already been communicating with the family that is going to adopt them—which, it has been confirmed to us, at times is the case. It could be at the last minute—or very close to the time when they are expecting to be adopted—that the adoptive parents become pregnant and that then poses a situation where the child—

CHAIR—Is rejected again.

Mrs MARKUS—could be rejected—or has been in some instances.

Mr Keogh—I have not heard of any such instances in the six years that I have been involved.

CHAIR—No, but it could happen.

Mr Keogh—It is conceivable, yes.

Mrs MARKUS—There is one other state that has mentioned they have provisions in the legislation for exemptions in instances where that may be the case. Do you have similar provisions?

Mr Keogh—No. There are very few discretions in this act.

CHAIR—It is very prescriptive.

Mr Keogh—Very prescriptive.

Mrs MARKUS—Do you think it would be helpful for there to be more discretions?

Mr Keogh—It is one of the things that I would like.

CHAIR—Just to get the pregnancy test situation absolutely clear, you require a pregnancy test to be taken when they are accepted to make the placement. It is done at the time of

placement, so anyone who becomes pregnant after the placement is made would not be subject to it?

Mr Keogh—That is right, yes.

CHAIR—How old has the pregnancy test got to be?

Mr Keogh—You would have it before they move off to go overseas.

CHAIR—No, hang on. The placement happens before they get on the plane to go.

Mr Keogh—The placement decision has been made. I cannot recall what the regulations say, but it is in the regulations.

CHAIR—It is a pretty important point.

Mr Keogh—Yes. It has not arisen as an issue for us—the instance that you have outlined—in six years. It is important, but it has not arisen as an issue.

Mr CADMAN—This is interesting. You are implementing regulations. That is interesting. If you could identify the regulation and send us a copy of something, that would be handy.

Mrs MARKUS—You could come back to us on it.

Mr CADMAN—This is something where you, administering the legislation, have no choice.

Mr Keogh—That is right.

CHAIR—What I cannot get my head around is what the date of the pregnancy test is and what date it applies to.

Mr Keogh—The regulations say:

For the purposes of section 52(1) of the Act, the means by which a female prospective adoptive parent is to provide evidence that she is not pregnant at the time of the proposed placement are as follows—

(a) a negative result of a Beta HCG pregnancy test; or

(b) written confirmation by a medical practitioner that the prospective adoptive parent has had a hysterectomy or otherwise does not have a uterus.

That is section 50.

CHAIR—What does section 52(1) say?

Mr Keogh—It says the department is not to place a child unless—

CHAIR—What does ‘place’ mean?

Mr CADMAN—An employer would be fined these days for asking that sort of question about pregnancy.

Mr Keogh—It is called ‘Restrictions on placement’. Section 52(1) says:

The Director-General is not to place a child with a view to the child’s adoption unless:

(a) the prospective adopted parent meets the following criteria—

and the relevant criterion is (1)(a)(iv).

CHAIR—What does ‘place a child’ mean?

Mr Keogh—It means ‘agree to the placement’.

CHAIR—It is an issue of authorisation.

Mr Keogh—Yes.

CHAIR—‘Here’s a piece of paper. This child is hereby being placed with you as of this date’?

Mr Keogh—It is agreeing that the child is placed.

CHAIR—How does it happen?

Mr Keogh—It is a case conference discussion. It is a document which I have to sign off and agree on.

CHAIR—How old is the pregnancy test when you sign off on the document? Do you require that they not engage in any intercourse before the placement is made? I mean, you could say, ‘There shall be no intercourse for 12 months, to allow proper bonding.’ It is just ridiculous.

Mr Keogh—The act is prescriptive.

Ms Bonson—It does not give a date.

Mr Keogh—It does not give a date or a time.

Ms Bonson—It does not give a time for the pregnancy.

CHAIR—Perhaps you could let us know precisely what documentation is required. As I said, I think it is crazy.

Mr Keogh—Certainly. We will get back to you on that one.

Mr CADMAN—Thank you for your evidence. It has been very helpful.

CHAIR—Yes, we do thank you very much. It has been very useful. I must say, just before you leave us, that there is another thing coming out of this. What we have seen is that the leadership of the adoption unit seems to have a very important influence on how it functions and on the attitude of the individuals involved. Where there is an anti-adoption person heading up a unit, it is a debacle—and we have seen one jurisdiction where a new person came in and it changed. The leadership is very important, and I might be so bold as to say that you seem to be getting some good leadership here.

Mr Keogh—Thank you. There is a long way to go and we would like to get there.

Mr CADMAN—You have made substantial changes though.

Mr Keogh—Yes.

Mr CADMAN—That is obvious.

Mr Keogh—And the department has resourced that. It has been very supportive of efforts to improve the situation for people who are adopted, and in some instances that has been quite courageous.

CHAIR—But they have given you a very prescriptive act.

Ms Bonson—And we have to implement it.

CHAIR—Thank you very much.

[12.05 pm]

FLINTOFF, Ms Sally, Committee Member, Adoption Support for Families and Children

HARWOOD, Mr Michael, General Member, Adoption Support for Families and Children

CHAIR—I now call representatives of the Adoption Support for Families and Children to give evidence. Do you have any comments to make on the capacity in which you appear?

Mr Harwood—I am an individual member of the ASFC and I am here today as a representative of ASFC, not as myself.

Ms Flintoff—I am a member of the committee of the Adoption Support for Families and Children and I was president for the past three years.

CHAIR—Thank you. Are you tendering as an exhibit this letter that is sent out by the department? Would a committee member move that a copy of the letter sent out to approved parents be received as an exhibit to the inquiry, together with the comparison of placement conditions for adoption which has also been provided by Mr Harwood. It has been so moved. We have your submission, for which we thank you, and we would very much appreciate you making an opening statement.

Mr Harwood—Firstly, I would like to thank you for giving us this opportunity to address the committee today. Unfortunately, a number of the senior members of the committee are unable to be here because they are in Korea. They are mothers of Korean children and they are in Korea to promote both domestic adoption and support for single mothers. I would like to tell you about some of the history of the ASFC, which is noted in the submission. Adoption Support for Families and Children began in the early seventies in response to some needs that families and children faced as a result of the Vietnam War. This led to some members adopting orphaned children. At the moment, ASFC is the oldest and currently the only support group in WA for adoptive families. There are over 250 members, and membership covers all of the stages of the adoption process, from new applicants through to those who have recently returned home with their children—and to those with many years of experience behind them.

The organisation's aims are twofold. The first aim is to provide support to prospective adoptive parents and to existing adoptive families. The next aim is to provide aid through monetary donations and fundraising and provision of goods to organisations that are at the grassroots of caring for children. With regard to our submission, one of the things that we feel is very important to acknowledge from the outset is that the WA Department for Community Development has streamlined the process for prospective adoptive parents over the last few years. They have done a great job in making that slightly easier than perhaps it was in the past.

The vast majority of the ASFC's members have acknowledged that they have very few issues, particularly if they are perceived to fit the mould. However, there are a number of members who do not fit the mould. Those that question the process have found themselves feeling somewhat intimidated and powerless—and even, in some cases, blocked. The document about placement

conditions for international adoption highlights this. I have supplied that document to the committee. Currently in WA the document consists of 22 conditions applicants must meet and agree to before they are to be allocated a child. As an aside, I think one of those conditions tells us about the pregnancy test you were just talking about, which is required a week before you travel.

CHAIR—Somebody might move that this be received as an exhibit.

Mrs MARKUS—So moved.

Mr Harwood—This document consists of three parts, basically. The first is the post-placement adoption conditions for New South Wales. It is simply a brief letter. The second is the WA conditions as at 18 months ago. There are 12 conditions. The final part is the conditions currently in place in China. There are 22 conditions there. That document has grown and, as far as the ASFC is concerned, there has been little or no consultation from the department. It has just kind of grown over time.

Ms Flintoff—Item 10 on that list says, ‘We will provide one week prior to travel.’

CHAIR—Yes, but you have already been advised of the placement by then.

Ms Flintoff—Yes.

CHAIR—Yet the act says it shall be at the time of placement, so really they have no right to ask for that.

Mr Harwood—I think this is indicative of the general feelings there are about some of the conditions, which I was going to highlight. Some of those conditions are legislative, some of them are regulatory and others are policy. Some of them appear to be purely departmental preferences. Condition 8 of the current China version regarding travel bookings states that prospective parents will not make firm bookings for travel to China to pick up their child until they have received written confirmation from adoption services that they can do so, which is a bit of nebulous comment really, because if you have already been placed and you have been allocated and everything is in order—

CHAIR—China likes people to travel in batches. That is a Chinese requirement. It strikes me as quite a good one, because you meet up with some other parents and usually the children will be from a similar sort of area. So they are almost constructing a cousin type arrangement, which I think is quite useful.

Mr Harwood—One of the most intimidating, for want of a less confrontational word, is the last point, which is point 22. That says:

I/we understand that any action on my/our part that is contrary to the above undertakings may jeopardise the allocation and finalisation of the adoption process.

I know a lot of members who feel that that is a threat almost. These are people who have literally jumped through hoops and made a major commitment and have been assessed to be responsible

enough to be able to adopt children. To take this approach seems a bit heavy-handed, I think. The conditions as they stand ask prospective adoptive parents to agree to some conditions that are not—

CHAIR—Sorry, let me get in here. With regard to China, the adoption process is completed in China?

Mr Harwood—Yes.

CHAIR—When you go to China, what is the time between travel and receiving the child and the adoption order?

Mr Harwood—It is not too long. I think it is a couple of weeks from travel.

Ms Flintoff—I am not sure.

CHAIR—When you get off the plane, do you get the child straightaway?

Mr Harwood—Fairly quickly—within days—yes. You go through a bunch of processes—medicals et cetera—at that end, and then the adoption is finalised. I have yet to go, but I think that whole process takes about two weeks.

Mr CADMAN—Is the child legally yours at that point?

Mr Harwood—Once the adoption is finalised, the child is legally the parents’.

Mr CADMAN—When is the point of finalisation?

CHAIR—When the court order is made.

Mr Harwood—In China. That is where China falls outside of much of the general—

CHAIR—The children that come here are under the guardianship of the Attorney-General until orders are completed.

Mr Harwood—A good example of where this causes some issues for the ASFC is that, as they stand, some of those conditions are neither law nor regulation. Another example is condition 9, which is all about naming.

CHAIR—No, I think you will find that is in the legislation.

Mr Harwood—The legislation talks about adoptions that are finalised through the Family Court in Australia, and China falls outside of that, because the adoptions are finalised in China.

CHAIR—I am not sure—and I will check—but I have a suspicion that there might be a Chinese requirement as well.

Mr Harwood—I do not think there is.

Ms Flintoff—We do not believe there is.

CHAIR—Okay. I will leave that to be checked. I know this has been raised with us before, because sometimes the translation of the child's name can be 'Left on Doorstep', which is hardly a great name to go through life with.

Mr Harwood—Yes.

Mr CADMAN—Do we have any information about how the kids themselves may feel?

Mr Harwood—The letter that the department sent out in January covers some of that ground, inasmuch as it talks about the fact that later on there are some possible issues as children grow up, knowing that their name has changed et cetera.

CHAIR—The Adoption Act, under section 74, prescribes requirements relating to the principle of the child's name. It states that, except in special circumstances, the child's first name should not be changed. The reasoning behind this position is that the first name of a child should be retained in order to respect the culture from which the child comes and to ensure that the child retains a cultural link with its birthplace. In the case of adoptions that are finalised in the Family Court of Western Australia, should there be special circumstances, the court will make a determination. The Family Court has granted a number of requests to change a first name, but in other cases the request has been refused. How can that be? It is an individual freedom.

Mr Harwood—One of the issues that has arisen is that those decisions have been fairly inconsistent—or have been perceived to be fairly inconsistent. Some adoptive parents who have applied to have a name change have been given a very easy ride—'Yes, not a problem'—and others have been—

CHAIR—Here is the answer:

As you are aware, adoptions from China under the current agreement are finalised in China rather than by the Family Court of Western Australia. This means that, in effect, the full name of the child is finalised in China. The Chinese adoption process is understandably not legislated by our act and legally the name issue is not part of the agreement with China.

You can call your child what you like!

Ms Flintoff—That is correct. However—

Mr Harwood—But the conditions that we agreed to state the opposite.

Mr CADMAN—Who has agreed? The parents?

Mr Harwood—Yes.

CHAIR—These are the conditions that parents are obliged to sign?

Ms Flintoff—If they are not signed, you are not free to travel to collect your child.

Mr CADMAN—If you sign off on that under a Western Australian provision, it is not required by the Chinese?

Ms Flintoff—That is right—nor by West Australian law.

Mr Harwood—It is not legislated for in respect of China.

Mrs MARKUS—That means that that portion of the agreement may not have any legal standing?

CHAIR—This is a bit tenuous:

However, the agreement does cover in part the role Adoption Service plays in assessment.

That is the agreement with China. But that is a federal thing, and then there is the country to country requirements:

Approval and the forwarding of files to China: the Department for Community Development Adoption Service is integral to the adoption occurring. For this reason, it is important that China, as well as adoptive parents, adhere to the principles enshrined in the Adoption Act.

That is how they justify condition 9. They go on to say:

The intent of the legislation is to retain the name of the child as a sign of respect for cultural ties with the country of birth. The name may not have been given by the birth parents—

Exactly!—

but it will reflect the culture of the country and there is a link to that place and time. Past Adoption Service research has shown that many adoptees feel that, in addition to having lost their birth parents and families, they also unnecessarily lost part of their cultural identity if their name was changed. Even if the name was allocated by a Chinese official and not the parent, the name still has an important cultural link.

I do not suppose it does if the name is Found on the Step.

Ms Flintoff—There is an example of this in the recent batch of allocations of Chinese children here. There were five girls allocated and their names all followed the same pattern: I believe it is Piang 1, and then a different name. Piang refers to the capital city of the state in which the children are coming from, and the '1' is sort of a generational name. Then they have their own individual name after that, and the agreements as per the department's requirements of these families are that they will all call their daughters Wan as their first name. These five girls must be called Wan. The majority of the families were very happy to maintain the second name that came after Wan as their individual name and what they are known by at the orphanage.

Mr CADMAN—As their given name, yes.

Ms Flintoff—That is what they are called; that is what they are known by. That is what they have been raised as. However, the department is insisting that they all be called Wan as the first name. Some of the parents have argued to the department that they cannot see that that is in the best interests of the children, for obvious reasons. We will end up in a situation in years to come where you have the five Wans and six Dongs and four Foos and so forth which I cannot believe is in the best interests of those children.

Mr CADMAN—No.

CHAIR—But what is going to happen? The adoption is completed; they are living here; they are Australian citizens. What happens if they decide to call themselves something else?

Mr Harwood—They can absolutely do that. The issue there, again, is that it is not in the best interests of the child—because a family comes home, having signed up to the agreements, and then three months later changes the child's name by deed poll. That means that the child, who already has a different type of birth certificate and different documentation that goes with them for their life, has more documentation to go through.

CHAIR—Yes, but they do not get that here. But they have a certificate—as one of our committee members likes to call it, the 'certificate of abandonment'.

Mr CADMAN—How do we know that it is an issue with the children in later life? Have there been studies? Is it hearsay? Is it someone's idea?

Ms Flintoff—I think there are some bodies of evidence to suggest that older adoptees whose original names have not been kept in any way, shape or form as part of their name—

Mr CADMAN—It would be good to keep the names but not necessarily call them that. Then in adulthood, if they wish to revert to their cultural name, they should be given that choice.

Ms Flintoff—On a personal note, my son for example is from Thailand, and his name is Acha, pronounced 'Archar'. Regardless of the legislation, my husband and I decided that we wanted to keep his name, because he was four when he came into the country. We felt that was his name and that is how he should be known. His name is a very simple name. However, I would say that 90 per cent of people mispronounce his name as 'Archer' which is quite different from 'Archar'. Perhaps for someone who is not very good with languages, that nuance is not great, but if you were to go back to Thailand and say, 'My name is Archer,' not one person in Thailand would recognise that as a Thai name.

CHAIR—It is amazing, given the Australian propensity for shortening, that he has not been called Archie.

Ms Flintoff—He does get called that as well. My concern grew at the point where he started calling himself Archer. I have gone to great lengths to explain to him that his name is not Archer, it's Archar, because I feel that is quite important.

CHAIR—But if he is happy being Archer, isn't that important to him?

Ms Flintoff—It is. But the only reason he is happy with that is because that is what everyone else calls him. My point is that keeping the name is not always necessarily keeping the culture in terms of the way it is pronounced.

CHAIR—What happens if he goes into the playground and they all call him Archer—‘Hey, Archer, come and play ball.’

Ms Flintoff—He answers.

CHAIR—And he says, ‘No, I’m Archar.’ You know what happens in the playground!

Ms Flintoff—Yes, exactly. My point is that that is a very simple name—and we are very happy that we kept it and we are quite happy to keep it—but there are more complicated names. Often foreign names are more complicated and to legislate that they must be kept because that is going to continue the culture and so forth for the child is not necessarily true.

CHAIR—What does ‘kept’ mean? Does that mean kept on documentation?

Mr Harwood—On paper, yes.

Ms Flintoff—Yes.

CHAIR—We all have friends whose first name is something other than what they are called.

Ms Flintoff—Yes, that is true.

CHAIR—They do not like what they got the first time so they take the second one.

Ms Flintoff—Yes, that is true.

CHAIR—We all have those friends. They cannot have fewer rights than anybody else.

Ms Flintoff—No, that is true.

CHAIR—All right, sorry. Go on.

Mr Harwood—I was going to talk a little bit about the actual process and the information seminars. We understand that in other states NGOs are invited to take part in the information seminars. Together with some other NGOs in WA, the ASFC has asked to attend these seminars repeatedly and to date has not been given that opportunity. I believe the department acknowledges that there is a very high drop-out rate between attendance at the information seminars and the expression of interest forms being lodged. The ASFC believes that this is possibly because—I can speak personally of this—the information seminar does tend to look predominantly at the negative aspects of adoption, rather than the amazing journey that it is and has been to date. If an NGO, such as ASFC, were allowed to present more positive aspects of the adoption process and if a more balanced view of the experience was presented to prospective adoptive parents I think more people would be encouraged to proceed and the drop-out rates might decrease.

CHAIR—Do people who are interested contact you and talk to you?

Mr Harwood—There have actually been some instances where the advice—I believe the advice that has been given to some people has not necessarily encouraged them to talk to existing NGOs and to—

CHAIR—What do you mean—the department says, ‘Don’t go and talk to the NGOs’?

Mr Harwood—Apparently some of the information provided has suggested that it might not be such a good idea to network too much with existing adoptive families, because of the possible upset you might experience if you subsequently do not manage to become approved.

CHAIR—That is a matter for them. They can choose to do that or not.

Mr Harwood—Yes.

CHAIR—You can publish here. You do not have the ridiculous law they have in South Australia that you cannot publish photographs of your family.

Mr Harwood—I was going to come to that.

CHAIR—Really? I forgot to ask about that when we had the department here.

Mr Harwood—I will tell you about the way it works here. Basically, we are not allowed to obviously provide any form of identifying information about the children. That is all.

CHAIR—Provide it to whom?

Mr Harwood—Anybody. You just cannot publish it. It is legislated against. It is section 124 of the act. It is an offence punishable by, I think, two years in prison or a \$10,000 fine.

Mrs MARKUS—Does that mean anything that mentions the child’s name or anything that identifies that the child is adopted?

Mr Harwood—It means anything that identifies the child—so it is talking about pictures.

Mrs MARKUS—Full names?

Mr Harwood—Full names, yes. We have recently been advised that possibly we are not even allowed to put any photographs without names attached on the ASFC’s private membership email newsgroup.

Mrs MARKUS—What if your child has a photo taken at a school function and it is going to be published in the school newsletter?

Mr Harwood—They would usually be known by their first name under those circumstances.

Ms Flintoff—That is prior to the adoption being finalised.

Mrs MARKUS—After the adoption is finalised it is not a problem, yes.

Ms Flintoff—It is not an issue.

CHAIR—In the case of China, it does not apply at all.

Mr Harwood—It does not apply at all. With the general assessment side of things, really I think the submission covered everything in the section on assessment. There are obviously quite a lot of differences in the way the assessments are carried out. The major concern is the lack of consistency. For example, in WA we have a minimum of six assessment sessions. In one other state I believe there are only three. There is a lack of consistency and it is obviously a very subjective process which makes some people's experiences very different from others. Some people have a very tough time getting approval and other people find it very easy. That may just be down to some people fitting the mould and others not.

CHAIR—I do not understand what you mean by 'fitting the mould'. I would have thought there has to be a set of criteria, and you either fit it or you do not. Do you call that the mould?

Mr Harwood—There are 10 competencies that potential adoptive parents have to meet to be approved.

CHAIR—Where are they?

Mr Harwood—They are in the submission. They are appendix 3 of the submission. Outside of that there is this perception ASFC members have that if you have little or no contact with the department that means everything is going smoothly. Somebody said if you rock the boat in any way you are at times left feeling that you may be jeopardising your allocation. This comes through quite a bit.

CHAIR—Is there anything else you would like to point out to us?

Mr Harwood—A couple of things. In the post-adoption services there is a lack of consistency. In WA it is almost oversupervised to a certain extent. I believe the ASFC membership feels that those supervisory meetings are more about parental check-ups—how you are doing with parenting—rather than any preparation for providing reports back to China, which is their actual stated purpose.

The ASFC also asks: who is best suited to provide services? Perhaps an NGO might be better placed to do that. The reasoning behind that is to do with the fact that the ASFC wonders whether some of the social workers in the adoption service have come from a child protection background. Whilst child protection is obviously a fundamentally important issue, sometimes there is a perception that there is a mistrust of adoptive parents and a belief that they are going to do the wrong thing. Even though they have jumped through hoops to get to where they are and have been assessed, they still feel that there is a lack of trust in the post-adoption period.

Mr CADMAN—In your view, is there a larger role that could be played by NGOs through the whole process, both in the preparation and in the post-adoptive period?

Ms Flintoff—Yes, I believe there is. The department would appear to be underresourced—or so they tell us. Therefore, there would definitely be a role for NGOs who are experienced in the field to provide services towards that.

Mr CADMAN—Would it be possible for them to do some of the preparatory work and charge a fee for the process, circumventing the departmental process but recognising there is a legal responsibility lying behind what they are doing?

Ms Flintoff—Yes, most definitely.

Mr CADMAN—Do you think that would be possible?

Ms Flintoff—Yes, I do. I think it could work very successfully.

CHAIR—It does not exist anywhere in Australia at the present time.

Ms Flintoff—No, it does not.

CHAIR—Why do you think that is the case?

Ms Flintoff—That is a very good question. As you are probably aware, there was an agency in South Australia who up until recently were licensed to do that.

CHAIR—That is right.

Ms Flintoff—I think it was last year that their licence was removed and handed back to the department.

Mr CADMAN—What do you hear on the grapevine about that?

Mr Harwood—What do you know that we don't know?

Mr CADMAN—It is very hard to ask that question in South Australia.

Ms Flintoff—To be honest, I do not really know. I have not heard anything through the grapevine in terms of the agency not behaving appropriately or anything like that. I do not believe that there were any reasons like that behind the removal of the licence. I know that in Western Australia there has been an agency that has been trying for probably the best part of six years to gain a licence. You will probably receive a submission from them at a later point in the day, so they would probably be better able to fill you in on those sorts of issues than we are.

CHAIR—I am conscious we are running half an hour behind time.

Mr Harwood—Right.

CHAIR—Is there anything else you should bring to our attention?

Mr Harwood—The only other thing was the maternity benefit. The ASFC would probably thank the government for raising the age to two. However, we also support the basis that all families, whatever the age of their children, should be entitled. The overall cost to the federal budget for this is a drop in the ocean. I do not have the figures, but it is not a huge amount of money. The fact is there are inherent costs. Adopting a child is a very expensive business.

CHAIR—In Western Australia you can be grateful that the fees are low.

Mr Harwood—Absolutely. Indeed, we are lucky. So there is that issue, and some adoptive parents have found that although they have adopted a child who is within the age range, they have not been entitled to any payment because that payment has already been paid to a foster carer. This raises some issues, because foster carers do receive allowances for child care. I know the allowances are not huge, but they do receive allowances.

CHAIR—Foster parents receive that payment?

Mr Harwood—Yes.

CHAIR—But wouldn't the mother have had it already?

Mr Harwood—My belief is that there are instances where the foster parents have received the payment. The adoptive parents have then gone to get the payment and been told, 'Well, you can't have it. It's already been paid for that child.'

CHAIR—I would have thought it would be paid to the biological mother.

Ms Flintoff—I am not in a position to comment on that. I would like to point out that raising the age to two was wonderful because very few children under 26 weeks will come into Australia for intercountry adoptions. However, there are many children over the age of two that come in. My son is one example. He came in at four. Our file is in Thailand again for a second child, and that child will likely be three or four years old again. The costs involved for us are no less because the child is four as opposed to two. Therefore, it seems rather discriminatory in some respects to say, 'Okay, if your child is up to two then we will reimburse you some costs and we will pay you the maternity benefit. However, if your child is over two, you don't really need it like everyone else does.' Quite often with an older child there could be more expense involved in terms of seeking professional help and support for that child.

CHAIR—I am very conscious that we are running over time. Is there any other point that needs to be made? Thank you very much, that has been very helpful. We will move to the community statements. The community statements are developed in this forum, where anybody can come and have their say and spend up to five minutes having that say. If you want to say your full name and whether or not you are representing yourself or an organisation, feel free to say so. If you just want to give your first name, that is fine as well.

[12.41 pm]

WADKINS, Mrs Joanne, Private capacity

WADKINS, Mr John, Private capacity

BONSON, Ms Leah, Director, East Directorate, Community Development and Statewide Services, Western Australian Department for Community Development

Mrs Wadkins—The laws governing adoption were last reviewed in 1994 and with that there was no provision to assist with or approve a relative adoption here in Western Australia. Today I would like to have the opportunity to highlight this. The phrase ‘in the child’s best interests’ is one that is used throughout the departments Australia-wide. Where this term goes when that child happens to be related to you is what I would really like to bring to your attention today. There is no provision in the legislation enabling one family member to be cared for by another family. There are many children worldwide that are existing in dire circumstances and severe poverty and there is no infrastructure to care for them where they are. Should that child be related to you, there is nothing you can do about that.

If a family member becomes orphaned overseas and if the immediate family that are in that particular country cannot care for them, you are excluded, just because you live here in Western Australia. What should we do? Should we ignore the needs of our family members by tying the hands of local departments of children and family services with our outdated legislation? We pride ourselves on being multicultural. We tell the world that we are multicultural—but only when we meet certain criteria. International adoption not only enables families to enjoy the precious gift of being parents; it also offers children an opportunity to be part of a family that gives them love and enjoyment and the wonderful Australian way of life—an experience that could not be replicated in an orphanage overseas.

So why does it matter if that child is related to you or not? Let us put aside our red tape and our personal agendas and put the child where the child should be—which is, I believe, in first place. My personal experience began five years ago when we heard of a child within our family who was not even born yet. He had a care order on him prior to his birth because of the history of the birth mother’s drug addiction. He was this woman’s fourth child. There was absolutely no way, as history had already shown the British social services—my family originate from Britain—that the mother was ever going to be in any way able to take care of this child. She had become extremely bipolar. She had severe mental health issues. Not only did she have her drug addictions but she was also extremely alcoholic. These problems eventually have given her severe mental health issues.

Her baby was placed in a group foster home at nine days of age. Once they had reviewed all of the local family members and approached them and asked them if they were able to take care of the child, there was nobody available. He was my second cousin. Being from Britain, we still have a lot of contact with our family, so we are totally aware of this child’s situation and the situation of the previous children—how they have been passed from pillar to post, from foster parent to foster parent. We really could not sit back and let this happen again. We applied to the

local department for assistance with this, but the legislation tied their hands and there was nothing they could really do to help me and my family secure a placement for this baby, who was sitting in a group home in the UK.

What I would really like to highlight is the fact that there was nowhere we could turn. There was nobody we could actually go to for assistance. The way the legislation has been written actually excludes you from being able to look at assisting a family member—not just within the UK but within lots of different countries throughout the world. There are many children that are known or related to you, but the legislation stops you being able to assist them, which I think is terrible.

CHAIR—Very strange.

Mrs Wadkins—Five years later, we are still trying to secure an adoption order. We eventually got access through the immigration laws. We knocked on every door, we lobbied every politician that we could and, with the assistance of Adoptions International here in Western Australia—they gave us some guidance—we were able to find out which senators to speak to and write to. Eventually we got ministerial intervention through Philip Ruddock, who we thank every day. At 11½ months of age, little Max was able to come to Australia. But little Max at 11½ months of age was extremely traumatised. He was institutionalised. He was touch-sensitive and at 11½ months of age we were left with a very terrified little boy that I was not equipped to look after in the way he needed.

We sourced a child psychologist to help us with that, but at the end of the day that would not have happened had we had the legislation in place to assist us to help our relative. International adoption has come a long way, and I realise that there has to be legislation in place for the best interests of these children. But just because that child is known to you I do not think it should be excluded from being offered a loving, caring home.

CHAIR—If you had known about going to the department of immigration earlier—

Mrs Wadkins—I would have done that.

CHAIR—Would you have gone to it earlier?

Mrs Wadkins—I do believe that we would have probably lobbied the right people more quickly, yes. But we were not aware that that was going to be the problem.

CHAIR—And you required ministerial intervention for that decision to be made?

Mrs Wadkins—Yes, we did, because the Western Australian legislation stopped us being able to get an adoption order for the child. That is what the British social services have always wanted, but we were not able to do that under the Western Australian legislation.

CHAIR—Western Australia is to get new legislation starting next year.

Mrs Wadkins—Will that include that? I have not heard that.

Ms Bonson—The new legislation is the Child and Community Services Act, which is separate to the Adoption Act. That is coming in.

Mrs Wadkins—So it would not have helped me.

Ms Bonson—The Adoption Act is being reviewed next year.

CHAIR—Can you please take that on board to advise people?

Mrs Wadkins—At the time, we had no help whatsoever. Max is five this Saturday and we are still trying to finalise an adoption. That situation is okay when the child is one or two—or three even. But now when I go to a doctor and they have to call out his name, Archibald Oliver, he asks me why. He says, ‘Who is Archibald Oliver?’ He does not even answer to that name. With the mental health issues of his mother, she named him Archibald Maximilian Maxwell Oliver. That is what she chose to do. By law I have to use that name. By law I have to register him at pre-primary next year under that name. He had to go to kindergarten this year under that name. When we go to a doctor’s surgery—you know what it is like, you do not always see the same doctor—they always call out ‘Maximilian Oliver’. I do not even hear it. I eventually realise. I wake up. There are all of these things that are ongoing. I am not Robinson Crusoe. There are a lot of people that really would love to take care of an orphaned relative or a relative in dire circumstances living abroad. Just because they are known to us, should we be stopped from being able to do that?

CHAIR—And you are stopped simply because the act precludes you?

Mrs Wadkins—Absolutely.

CHAIR—Is there an embargo in the act?

Mrs Wadkins—It just actually stops us being able to do that. Had I been able to get an adoption order via the Western Australian department here to enable me to go and take the child from the care, that would have let me help get Max into the country, because, had I had the adoption order, I would have fitted the criteria for immigration. It was a catch-22 situation. I could not get the adoption order so I did not fit the immigration criteria, so I had to get ministerial intervention. It was a very difficult process.

CHAIR—This is a child with no other relative?

Mrs Wadkins—With no other relative able to care for him. They had exhausted everybody in the UK. We were his only option—other than a life in care. We all know the outcome to that. That is all I would like to say. Thank you very much for your time.

Mr Wadkins—That was my good lady wife. This afternoon I would like to speak from a rather unique position about the need for change within the legislation. It is a position of knowledge that the legislation in Western Australia, as it stands, is wrong. I was adopted at birth; relinquished by my mother who could not look after me at the time, due to her circumstances. My father found my mother was pregnant and was never seen again—an obvious pillar of society there. He passed away about six years ago. I shall never meet him or know of him. I will

never know his side of the family—who they were or what they did. I do have siblings on his side, but do they know about me? I do not know. Do they want to meet me? I do not know. This hurts deeply.

I have only just, at the age of 49, found and met my birth mother—a rather interesting experience that was. I now know I had five brothers and one sister. My mother is Irish and my father was Scottish. Two of my brothers had died before I even had the chance to say ‘G’day’ to them. I now know that cancer, as my mother puts it, gallops in my family. It does not just run. Also diabetes is an issue for us. All these things may seem insignificant but to me, when I talk to a doctor or a surgeon, they are apparently useful. All these things I could have known about if I had been adopted by a family member. Even though my mother could not look after me, did the family still want me? Believe me, I want to ask these questions.

You ask yourself, ‘Why? Am I so bad that even the family did not want me? Why? What did I do?’ Interfamily adoption, if it is available, is an excellent option. Just ask me. I would love to know who my aunts and uncles were, who my cousins were, what my family tree was. I would love to know that I did belong to the family. The thing about adoption is that you are adopted. That seems simple enough, but it does not explain it. There are a lot of missing pieces in my life that will never be filled in. They are pieces that were probably told to you by your aunts, uncles and grandparents—in other words, by family members, because they know.

They know who is who and what is what and that is important to us adopted people, as we want to know. That is why we have to let relative adoptions, where they are a possibility, occur when there is a child in need. I was in need, and it would have been in my best interests to have been adopted by my extended family. I appreciate what my adoptive family did for me; always being there for me, caring and looking after me, but think of the child and only the child and let it have whatever options are open to it. Who are you to deny them any of the options that are open to them? Put yourself in their shoes. Put yourself in mine. You will still not be able to know the heartache of not knowing. If only you could have had a piece of legislation in place that could have prevented that.

Why we here in Western Australia have to cling to this outdated piece of legislation on family adoption defies comprehension, in my view. Western Australia is growing. Let us show that we are growing in our minds and maturity. Let us show the world that through debate and education and awareness this is a place that can change and is willing to change—and to change for the betterment of families. Adopted people are different. There is a difference between you and me. If a change in legislation can make that difference smaller, then let us do it, for all of us. After all, as they always say, it is the child that matters—and I do know that. Thank you.

CHAIR—Thank you very much.

Mr CADMAN—In this instance you are probably referring to UK legislation on adoption, are you not?

Mr Wadkins—No, Western Australian legislation.

Mr CADMAN—Weren’t your relatives—

Mr Wadkins—It is my wife's relative that we are trying to adopt.

CHAIR—No. They were born here, but they were of Irish and Scottish descent.

Mrs MARKUS—There are two separate stories.

Mr CADMAN—Born here.

Mr Wadkins—Yes. Just to explain: my wife has explained our amazement, if you like, at how we have not been allowed to adopt Max, when we are part of his family. My point of view is that I would really love to have been adopted by my family. I know the experience. I have lived it.

CHAIR—Yes. Your point of view is that you do not know whether they wanted to adopt you, but the law prevented it anyway.

Mr Wadkins—Yes. I know a bit of my family now, through meeting my mother this year. I will never know my father's side.

Mr CADMAN—You have a slight English accent.

Mr Wadkins—I was born there, yes.

Mr CADMAN—You were born there.

Mr Wadkins—I was born in England and adopted in England but my wife and I—that is my wife who spoke previously—are trying to adopt young Max. I think you missed the start.

Mr CADMAN—You are not talking about the prospect of you yourself being adopted by a family relative?

Mr Wadkins—Yes. If I could have had that, I would have appreciated it.

CHAIR—Was your adoption carried out under English laws?

Mr CADMAN—That would have been under English law—that was my point.

Mr Wadkins—No. My point is that here in WA we are not allowed to adopt Max because he is my wife's second cousin.

Mrs Wadkins—Now we can try parent adoption or whatever process in finalising that, but initially what John was trying to say was that, had we initially been able to have an adoption order finalised here in Western Australia, it would have stopped a lot of the red tape that we are still caught up in five years later. John was highlighting the fact that this type of situation is not unique.

CHAIR—You are saying your adoption happened in the UK and there was no law against being adopted, but it did not happen and you would have liked it to have been within your family?

Mr Wadkins—Yes, I was just speaking as an adopted person.

CHAIR—I understand. Thank you.

Mr CADMAN—Thank you.

[12.56 pm]

BOULTON, Mrs Melanie, Private capacity

Mrs Boulton—My name is Melanie. My husband and I put a written submission in to the inquiry. It was submission No. 60. Our circumstances have changed quite a bit since then. We had been approved to adopt. We had sent our paperwork to China and anticipated an allocation from China this month and hopefully we would have been able to travel to China by the end of the year. We have been told there were very few babies available locally; however, in WA we did have the option of putting a profile in the local pool of applicants and we thought, ‘Well, we will put our profile in locally,’ but really did not expect anything to happen. We were very fortunate in that we were selected by some birth parents locally and we had an eight-month-old child placed with us. I cannot name her so I will refer to her as ‘our daughter’.

CHAIR—You cannot name her?

Mrs Boulton—No. I do not think I am allowed to give her name, am I?

CHAIR—I can tell you in this inquiry you are covered by privilege.

Mrs Boulton—Okay. I will try and keep it neutral because if it gets published or something then it is a problem. Anyway, we were offered a local eight-month-old child and it was really wonderful. We were delighted but it was very traumatic as well because we really expected our daughter or our child was in China and we had to make a decision to withdraw our application from China in order to accept the local placement here and that was a difficult part of the process for us because we were committed to going to China.

Another part that was perhaps stressful to us was the whole pregnancy test aspect. Our daughter had been in foster care and we had a three-week handover period so we went to visit our daughter in foster care pretty much every day for two weeks. After that the foster carer brought her to our home every day for the final week and we had one sleepover as well; the idea was that we all get to know each other and settle in, which was really great. We knew we had to do a pregnancy test for the placement to happen and I wanted to race off and get a pregnancy test straightaway but I was told, no, we had to wait until the final week. So we were visiting our daughter for over two weeks, each day, before we could do the pregnancy test. That was really stressful because I was still working at the time and I was at work saying, ‘I hope I’m not pregnant.’ We had sex the night before we got the call about the placement—‘What if I’m pregnant?’—and we had this whole sense of sheer panic for two weeks because we obviously have not used contraception for a long time. We thought at the back of our minds, ‘What if this pregnancy test is positive?’ and that was really scary for us as well. Fortunately it was okay.

CHAIR—I can understand. It is a wonder they do not get you a court order saying ‘Thou shalt not’.

Mrs Boulton—Over the past 10 years I have been pregnant twice before and it ended in miscarriage, and we were sitting there thinking, ‘What if we get a positive pregnancy test and what if we miscarry a couple of months later?’ and that was really scary for us.

That was that part there. Another part was we could not give out any sort of birth announcement with the details of her name and her being placed with us for adoption, so it was really awkward because people said, ‘Well, we need to put something in the work newsletter,’ or, ‘We need to put something in the local cycling club newsletter.’ We are on the committee of that club. We put something really vague like, ‘Mark and Melanie welcome the early unexpected arrival of their daughter,’ and just left it at that. I know that rule is intended to protect the child’s privacy but in a way it was worse for her privacy because people assumed that perhaps I had fallen pregnant and given birth prematurely. I had people turning up with premature baby clothes to give to me for my baby and I had this eight- or nine-month-old. It was really funny as well.

Then I had to go through and explain over and over again to people why I had not given any details and things like that, so there was that complication. That is not the fault of the staff at adoption services. That is just the legislation as it stands.

CHAIR—And this applies until such time as the adoption order is completed?

Mrs Boulton—I think so, yes.

CHAIR—Then you can be like anybody else and be proud to have your daughter’s picture in the paper.

Mrs Boulton—Yes. We are very happy to have her and we are happy to put up with all of that, but obviously it has its complications. Then, of course, we had to go to Medicare and Centrelink. It seemed a bit strange that on the one hand we could not put any details in our local club newsletter, but on the other we were standing at the counter at Centrelink explaining the circumstance to one person, who was calling in a second person, who was calling in a third person, while we were standing at the counter at Centrelink trying to explain what was going on.

CHAIR—And everybody else is listening!

Mrs Boulton—Yes. I would like to thank the committee for the work they have done in raising the age limit on the maternity benefit. I think possibly we might have been the first people with a locally placed child in Australia to benefit from that. It did take them three months to work out our application and what to do with it, which was rather interesting. The local Centrelink office had to refer it to Canberra, and they had to refer it to someone else. Centrelink were really good. They kept ringing us saying, ‘We’re still trying to work out what to do with it. We’re still trying to work it out. We’ll get back to you.’ It did take three months, but we got it, so that was really great.

I think if there is one thing that I could ask for or wish for in intercountry adoption it would be a relaxation of the immigration health criteria. We were very fortunate in that our daughter’s birth mother happened to be living in Australia when she was born. If our daughter’s birth mother had been in China, as we anticipated she would be, it might well have been that our daughter would not have passed immigration requirements. When we applied to China we said

that we were willing to accept any child, including a child with some specific special needs. In this case, when I am talking about special needs, I am not talking about siblings or older children, I am talking more about maybe a minor deformity or disability or a medical condition.

I read through some of the other transcripts from the other hearings, and I think you spoke to someone from Taiwan who was saying that if there was a child with a missing hand or a missing foot they would not place that child with an Australian family because the child would not meet the immigration visa requirements, but in other countries such as the Netherlands or the USA the child would meet those requirements. We, for example, would be quite happy to adopt a child who had a missing hand or a missing foot or a cleft lip or a cleft palate. We consider that quite minor. We would be quite happy to do that. We think that adoption is about finding homes for families. It does meet the needs of infertile people, but the focus should be on finding homes for families, and that should not be just the perfect super-duper healthy child. I think it is really offensive that Australian Immigration says, 'Your child is missing a hand or a foot so they can't come into the country.' I really have a bit of an issue with that. Anyway, we are fortunate. Our daughter was born here and because of that we did not have to go through Immigration.

We did ask DCD what would happen with respect to Immigration, if we were placed with a child with some special needs, and we also contacted the immigration department about that. Essentially, we were told that we would need to pay the immigration fee; we would need to travel to China; we would need to go through the court process and adopt the child in China. We would then need to go to, I think, Shanghai, where the exit visas are processed. We would need to take our child for a medical in Shanghai and then wait to see whether the visa was approved or not. I was told that there was no way of getting instant clearance beforehand.

Then I said to the department: 'What happens if I've adopted this child and I can't get the immigration visa for it? What do I do then? It's our child.' I was told, 'Well, we can always contact the Chinese authorities and we can get a replacement child for you.' Obviously they are trying to help, so do not take it the wrong way, but it made it sound like a car—that you could just go and get a replacement child instead! I thought, 'Well, if I've had that child there for two weeks and I've adopted it, I actually want to keep it and take it home.'

I spoke to Immigration—just the call centre person; I did not follow it through at great length—and essentially I was told that there was a possibility of a waiver of the health criteria. If the application was knocked back we could apply to have the health criteria waived, but they could not give me any clear guidelines on what would be waived, what would not be waived or how long that process would take. It was a real unknown.

I have had a little bit of contact with some people who have been in those sorts of circumstances. I came across a lady back in the 1990s—and I do not know what has changed since then. She went through three appeals processes over an eight-month period before she finally got the health waiver to get her child into the country. I know in that circumstance the child had severe and multiple disabilities. Those were not in the category of disability I would have been looking at. But we looked at that and thought, 'Gee, we wouldn't have the finances to stay in China for eight months while waiting for appeals to be processed.'

Perhaps something could be put in place to somehow relax the immigration health criteria, or perhaps some process could be put in place so that if, for example, we were in China and we had

a child who did not meet the criteria, there could be perhaps a one-week turnaround in the appeals process or something like that, so we would know that, if there was a problem, there was also an appeals process and that these sorts of things were likely to be let through the system and that we would have to wait a week for the appeal to be processed. Then we would be able to hop on the plane and go back home again. I think that would be really important. I would really appreciate that.

We would really like to adopt again. Obviously we need to wait two years before we can do that, but hopefully we will be able to apply to China again. As I said, our child has a minor disability. We would love to have a child with the same disability from China. I think it would be really fabulous to have siblings in the same circumstances. Knowing that we could go and make a specific request and that we could get past Immigration would be really great. That is probably about it. Overall, we are really happy. My husband was adopted and it was a positive experience for him, which encouraged us to adopt. In retrospect, if we had known how easy it was in comparison to IVF and years of infertility, we would have adopted a lot earlier, but we were led to believe that it was going to be very complicated and expensive, which it is, but it is manageable. That is about it. Any questions?

Mr CADMAN—You're a great little talker!

CHAIR—We think that little bundle over there was very good.

Mrs Boulton—Fabulous! She was so good. I was so proud of her, because normally she sleeps from 11 till one, and I was going to organise someone to babysit and they fell through, and I thought, 'Will I go or won't I?' I said, 'I'm going to go.' Yes, I am really proud of her. She was so well behaved today.

CHAIR—I can hardly believe that we have to talk about her as 'girl child'—that we cannot have her name. She does have a name. It is all covered by privilege. You can say her name.

Mrs Boulton—No, I think I had better leave it out.

Mrs MARKUS—You are covered by privilege. It is as if you are in parliament speaking.

Mrs Boulton—No, that puts me in a really awkward position.

Mrs MARKUS—We understand.

Mrs Boulton—Our adoption certainly has been finalised and we would like to adopt again.

CHAIR—I can understand. We will not push you.

Mrs Boulton—Obviously the legislation is in place and we need to work within that.

Mr CADMAN—Very neat.

Mrs Boulton—Thank you.

[1.08 pm]

SHARPE, Dr Pam, Private capacity

Dr Sharpe—I do not have a prepared statement, but there are three aspects of our adoption process that I would like to talk about. I am the adoptive mother of a four-year-old girl from South Korea. We adopted before the Adoption Amendment Act was passed in WA and we were under enormous pressure in the process because we were coming up to age 40. There was then the most restrictive age gap situation in Australia. The amendment act changed this in WA to 45 and 50 but, based on our experience, I do not see why different states have different age situations. It causes a small migration of those who can migrate to states like Victoria, which follows the country's adoption age criteria. That was a very difficult time for us, entirely because there was an age provision.

I must say that the department very much did speed everything along, and we are very thankful to them for that. During the process we went through the normal assessment with a psychologist for two hours a week for six weeks. I did not really see eye to eye with our psychologist, I must say. I am an academic and I found it difficult to hold back from arguing with her. She had, in particular, an aversion to day care and when we were talking about how we would be looking after our child I pointed out that, as two parents in professional jobs in a situation where we do not have any local relatives who can help us, we would be sending our child to day care. This was raised as an issue in the adoption and we were sent off for extra counselling. Having now gone through the process and sent our child to an extremely supportive and helpful day care, I would argue it was one of the best things that we have done.

The third point I want to raise relates to the name issue. Here I definitely do have difficulties with the Adoption Amendment Act clause that says the name must be kept. I should say that in our case our daughter was 11½ months old and had some recognition of her name, which is somewhat complicated, so we changed it to a Western similar name. We found out three months after we got the child that in Korean this name that we had given her means 'orphan' or 'abandoned child', so it was obviously a complete mistake and we changed it again back to her original name, which now I am very pleased about. But I think the issue here is that every single case is different. It is all individual. It is a case for education and it is a case where NGOs or departments can help with the language difficulties. In our case they could have assisted us with our planned name by telling us—a mere case of translation—what the name meant and helping us with our individual case. That is what I think is necessary, rather than some sort of blanket clause asking us to keep the original name.

CHAIR—Thank you very much.

Dr Sharpe—Thank you.

Proceedings suspended from 1.13 pm to 1.41 pm

ROBERTS, Mrs Maureen, Chairperson, Adoptions International of Western Australia Inc.

ROSENWALD, Mrs Geertruda Maria Matthea, Assistant Principal Officer, Adoptions International of Western Australia Inc.

CHAIR—Welcome. We have your submission. Would you like to make an opening statement?

Mrs Roberts—Yes, we would. Thank you for this opportunity to address you. We offer the apologies of Stephanie Wilson, our principal officer, who is unable to be here with us today.

Adoptions International is an incorporated non-government not-for-profit charitable and professional adoption information, counselling and resource service that was established in 1996 and came from within the intercountry adoption community of Western Australia primarily for the purposes of becoming a licensed and accredited adoption agency. Since its establishment, Adoptions International has developed services that are sought after by members of the local and intercountry adoption community for pre- and post-adoption services. These services came about as a need to fill identified gaps in the existing service provision, particularly in the intercountry post-adoption placement area.

Over the years, Adoptions International has provided services to thousands of people from all sides of the adoption community and the general public and has maintained an extensive network both nationally and internationally. Adoptions International has been instrumental in raising awareness of and educating about issues in adoption through organising conferences, workshops and seminars, with invited experts from Australia and overseas. Notably, these were on key issues from the importance of attachment, child development issues and post-adoption service needs to the growing number of adult intercountry adoptees.

The board and staff of Adoptions International between them have over 230 years experience in adoption that reflects perspectives of all parties to adoption. They have provided services in a voluntary capacity with Adoptions International that are funded by fees for service and donations. Intercountry adoption began in WA during the mid-1970s and to date approximately 700 children have been adopted from overseas countries by Western Australian families. Predominantly, the children have been placed from Korea and India and more recently from China.

The key issues that Adoptions International wishes to address at this hearing today concern licensing and accreditation—Adoptions International's application—the changes to the approval process over the past 30 years and their impact on the quantity and quality of intercountry adoption in Western Australia, the importance of post-intercountry adoption services, the relationship of Adoptions International with the central adoptions authority in Western Australia and its delegates and relative and non-Hague convention countries in relation to ECPAT adoptions. Thank you.

CHAIR—Thank you very much. Dr Rosenwald?

Mrs Rosenwald—No, that was a joint introduction. Can I correct you? I am not yet a doctor.

CHAIR—Thank you. You said you wanted to concentrate on licensing and accreditation today.

Mrs Roberts—That is one of the issues. As you may be aware, Adoptions International has twice applied for a licence and accreditation and both of those applications have been unsuccessful. The process is very much a conflict of interest, in that we have to deal with the government department and the minister and because of their own interests, in that they provide adoption services, we feel that it would be far better for licensing procedures to be done through the federal government rather than the state government so that there could be no conflict of interest arising from applications.

CHAIR—The problem is that the question of the relationship between a child and a parent is governed by state law. The federal law governs citizenship, visas and negotiating treaties and agreements between this nation and another nation. The law determining the relationship between a child and its parents is state law. There are no agencies at all.

Mrs Roberts—No more.

CHAIR—There was one in South Australia, which went this year—

Mrs Roberts—That is correct.

CHAIR—and we are still not really very clear why. We took evidence in South Australia yesterday. At this stage, there does not seem to be a willingness from any of the jurisdictions to have NGOs involved.

Mrs Roberts—I think you are correct in that, because Mr Jay Weatherill, the minister responsible in South Australia, made a press statement at the time that the South Australian agency was closed that it was far better for the government to be involved in intercountry adoption, rather than private agencies, and that South Australia wished to be the same as all the other state governments that did not have private agencies involved or licensed in the intercountry adoption area.

Mr CADMAN—Do you only take an interest in international adoptions, as implied by your name?

Mrs Roberts—No, we are involved in local adoption as well, in that people do come to us for advice, assistance and support, be they an adoption applicant or birth parents who are considering placing a child for adoption, or people who have been adopted themselves. We are not just focused entirely on intercountry adoption but we do specialise in intercountry adoption.

CHAIR—Are there additional points you want to make about issues other than accreditation and licensing?

Mrs Roberts—I think Mrs Rosenwald wishes to talk about the changes to the approval process over the last 30 years.

Mrs Rosenwald—One of the terms of references is inconsistencies in approval processes across Australia. I understand that the overarching question really is why there are so few intercountry adoptions throughout Australia, compared to other countries. Having been involved in intercountry adoption virtually from the beginning in Western Australia, there have been highs and lows. Having worked in Adoptions International for the last 10 years, my opinion is that the changes have not necessarily been for the best. There was a comment earlier that the process has improved. Certainly the process has sped up, but years before that in Western Australia the process was very clear-cut. It was not so much easy but everybody knew where they stood and it was a very supported process.

CHAIR—When was this?

Mrs Rosenwald—Between 10 and 20 years ago.

CHAIR—It is a big gap.

Mrs Rosenwald—Yes. In the last 10 years the process has become even stricter. Prior to that, in the late 1980s, early 1990s, there was the start of a significant drop in intercountry adoptions. Western Australia reached its lull in 1994-95, when there were about nine. What we saw was a tightening, more in policy rather than legislation. The legislation followed up from that. There was not really any support for intercountry adoption and the aim seemed to have been to basically phase it out.

CHAIR—But the numbers have gone up since then.

Mrs Rosenwald—Since then, Adoptions International was established in 1995-96 and it applied for licence and accreditation for the purpose of at least maintaining the possibility of intercountry adoption in Western Australia because it became so clear that the government department was not exactly interested in facilitating it. Seeing the legislation provided for agencies to apply for licence and accreditation—it was only licence at that time; accreditation came in with the Hague convention—Adoptions International was established and it started the application process for licence.

We have reasonable evidence to say that since that application process, although it has been unsuccessful, we have seen a significant increase in the number of intercountry adoptions in Western Australia. A big influence has been the fact that it has been shown that there is a consistent interest in intercountry adoption in Western Australia and there is a consistent need around the world for children to have intercountry adoption available to them. Talking about changes, the process has become much more bureaucratic over the last 10 to 15 years. The sentence ‘in the best interest of the child’ has become the catchcry of the—

CHAIR—It has become a mantra.

Mrs Rosenwald—It is a mantra. Has it really improved intercountry adoption for children? I do not think the research evidence is there to support that notion that by making it more bureaucratic, more red tape, more hoops to jump through, it is ultimately improving outcomes for the children. I have not seen it in legislation. I have not seen it in research evidence yet. Those are the comments I want to make about the changes in the process.

CHAIR—I think things have got better. We took evidence from young people who came to Australia in the seventies and the eighties about problems that they encountered. Things have improved.

Mrs Rosenwald—Are we talking about the adoption process or are we talking about Australia as a society?

CHAIR—No, we are talking about how they were placed, where they were placed and what happened to them.

Mrs Rosenwald—Okay. I have done research myself. The evidence is that in Western Australia for the first 20 years there were five adoption breakdowns. In the subsequent six or seven years there were six or seven adoption breakdowns. The system tightened up and the adoption breakdown rate seems to have suddenly accelerated.

CHAIR—What is the breakdown rate now?

Mrs Rosenwald—It depends on what we are looking at in terms of years. My understanding is over the last couple of years there have not been any adoption breakdowns; not that we are aware of, anyway.

CHAIR—Okay. Anything else?

Mrs Roberts—We would like to stress the importance of the post-adoption area of services which others have spoken to today. It is vitally important that once the child has arrived in Australia with its family there are services provided to them to prevent that very issue of adoption breakdown. Many of the children, even though they are coming as infants, do have specialised needs. Often it is difficult to find in the community suitable practitioners in various areas dealing with attachment and sensory deprivation and other issues that the children have.

CHAIR—We have heard that attachment issues are becoming more prominent. People are taking more notice and having courses to assist with that.

Mrs Roberts—Yes. There are often not enough specialists in the areas that understand what is an adoption issue and what is a developmental issue or some other condition that the child has. It can be a very complex area. Often adoptive families find themselves floundering because once the post-placement period is over there is a lack of continuing support. Within the non-government area many groups, such as ours, Adoption Research and Counselling Service, and Adoption Support, do provide some services to help but there needs to be more of a formal structure rather than the informal structure that has prevailed here.

Mrs Rosenwald—In fact, Adoptions International has been advocating and very active in the delivery of post-adoption services for intercountry adoptions. In particular, it has started gatherings for adult adoptees. The first one was for Vietnamese adoptees and was the first one in Australia, followed by one for Korean adoptees. Adoptions International has been very active in promoting and facilitating adult adoptees from Korea participating in programs that have been made available by the Korean government. Western Australia seems to have been leading that.

To date there have been about 25 Korean adult adoptees from Western Australia who have participated in the program.

CHAIR—I went to an international day just out of Brisbane not so long ago. The government aspect of adoptions in Queensland is just awful but the support groups are very good. They organised this big international day for children and parents. There were hundreds of people running around and the children were all in their national costumes. They had presentations and so on. It was a lovely day and it gave a sense of, 'Here are kids like me.' This was one of the things we heard from the people who had been adopted in the seventies and eighties, when there very often were not 'kids like me'; whereas they would feel like everyone else, everyone else did not accept that.

Mrs Rosenwald—Yet at the same time—if I may add—again, having been involved in adoption also as an adoptive family, the whole socialising of adoptive families and adopted children, the very issue that you raise, was recognised from the start. The socials, the get-togethers, the parties, have always been there.

CHAIR—They were not, from the kids we heard. They would be the only one in a country town.

Mrs Rosenwald—But that is also a question of the structure of Australian society—being much more isolated. That has changed over the last 20 years. We have become much more multi-ethnic. Certainly for the families who were adopting earlier, particularly the Vietnamese placements, it was very difficult for them to do subsequent adoptions. It was more a combination of factors that made these children end up, for instance, as the only intercountry adopted children families. There were a number of factors there. I acknowledge that there are a number of intercountry adoptees who have felt very isolated and very much alone. If nothing else, I would always encourage families to adopt at least two children to give these children a sense of shared identity. Certainly as a psychologist that is well supported in identity studies and annotative studies as well.

There are a whole heap of issues there. But the socialising, the opportunities to go to the socials, have always been there. When you go back in the records of what is now Adoption Support, go back through the newsletters, you see that there was always somebody organising something. But the children very quickly reach a stage where they just want to be like their mates. My children were mid-primary school and they said: 'Mum, you go there. We know you like that, but we will go off and play with our friends.' The opportunities were there for most of the children, unless they were really isolated.

I think WA has been very fortunate that it has had an intercountry adoption community in particular that was very much knitted together. There was only one support group, and I think that has had huge advantages because the networking was strongly maintained. There were families where the children arrived at the same time, they travelled at the same time and found it very similar, as we see now with the China adoptions, and there were families who were still meeting 25 years after adopting their kids. The kids have maintained that relationship. But very quickly the kids have had their own say on whether they wanted to participate or not.

Mr CADMAN—Why have you not been accepted?

Mrs Rosenwald—With the licence and accreditation application?

Mr CADMAN—Yes.

Mrs Roberts—There were various reasons. The primary one was that the minister believed that we were incapable of keeping paramount the best interests of children, as per the Adoption Act. It also had to do with other areas; because we accepted donations, we could possibly be more prone to corrupt behaviour. There were a number of other things as well.

Mr CADMAN—What does a licensed agency mean? Surely that means that you conduct the whole process of interview and home assessments—all of those sorts of things—but at the end of the day the department goes over your work and approves it?

Mrs Rosenwald—Basically, you can apply to become licensed and accredited for particular functions. Adoptions International applied for particular functions to undertake to complement or be in partnership with the department. According to legislation, anybody who provides adoption services must be accredited or licensed.

Mr CADMAN—Yes.

Mrs Rosenwald—There is a big anomaly in the actual practice in Western Australia. Although Adoptions International had applied for a licence and accreditation to be able to provide these services, which includes pre- and post-adoption services, but also possible assessment, approval would always stay with the department through its Adoption Applications Committee. The approval for placement would stay with the department. The potential finalisation of the adoption paperwork would stay with the department; very similar to the process that was operating in South Australia.

But Adoptions International was not able to become part of the existing service provision, which in fact does include non-government organisations at the moment, but they are on contract with the department. They are deemed to be preferred service providers.

CHAIR—Who are they?

Mrs Rosenwald—They are Adoption Research and Counselling Service and Adoption Support for Families and Children. As service providers, they were not deemed to be licensed and accredited. Adoptions International was hoping to become involved in part of that adoption process, certainly in terms of pre- and post-adoption counselling services, but we were told time and time again that we had to wait until the licence and accreditation application had been finalised. So 10 years later, there is no approval and Adoptions International is still not listed as a preferred service provider.

Mr CADMAN—Do you think that the department, or successive governments—because you are talking about a fair length of time—

Mrs Rosenwald—Yes.

Mr CADMAN—have been prejudiced against your organisation or the non-government sector? Which one?

Mrs Rosenwald—I think the view of Adoptions International is that there has been prejudice against Adoptions International because it dared to apply for a licence. It dared to challenge its monopoly.

Mrs Roberts—The law has also been changed with regard to applying to become a licensed and accredited agency. Now you can only apply if the minister advertises for expressions of interest. Therefore, no-one can now apply unless the minister puts out an expression of interest. That is unlikely to happen.

Mr CADMAN—Your view is that the department or the government is content with their current contractors? You say that other NGOs do work under contract. They are happy with those contractors. Are they licensees as well?

Mrs Rosenwald—No.

Mrs Roberts—No.

Mr CADMAN—So there are no licensees in WA?

Mrs Roberts—No.

Mrs MARKUS—Just preferred providers?

Mrs Rosenwald—Preferred service providers, yes.

Mrs Roberts—There was no tender put out for preferred service providers and no expressions of interest were advertised. Those two groups, who were already providing the services, were allowed to continue their service.

Mr CADMAN—Grandfathering rights is a fairly common practice here. I am rather keen to see the NGO sector get involved, because their members are parents who have experienced adoption—either in country or externally—or people who want to adopt and therefore a great deal of practical knowledge builds up within an organisation. You are pretty good at employing people, where necessary, who can understand the parents' point of view.

Mrs Roberts—The board and staff of Adoptions International are made up of people from all sides of adoption. I myself am a birth parent. In fact, today is 41 years since my daughter was born and placed for adoption here in Western Australia. I am also an adoptive parent of three children. We have an intercountry adoptee on the board and we have another birth parent who works for us. We also have community members who are not necessarily a party to adoption. We offer a service that is provided by people from all different perspectives and we are made up of a board and staff, not membership, so we have a different role within the adoption community.

Mr CADMAN—So I cannot join your organisation?

Mrs Rosenwald—Could I just explain the reason why this is. Adoption Support, which way back was called Australia for Children Society and ASIAC, originally wanted to apply for a licence. When private adoptions were made illegal in Western Australia, the option of becoming a licensed agency was created within adoption legislation. At that time, Australia for Children Society wanted to become a licensed adoption agency but did not have the resources to actually pay a psychologist or a social worker, which was a requirement to be principal officer at the time, so it was put on hold.

By the time Australia for Children Society was ready to reapply for a licence, legislation started to change more in line with the Australian interpretation of the Hague convention on intercountry adoptions; that aid and sponsorship programs could not be delivered by an agency that was also licensed and accredited. Subsequently, out of Australia for Children Society, the organisation Adoptions International WA was created to become a separate arm as a professional body to become licensed and accredited; hence the creation of Adoptions International from that very community that was providing sponsorship and aid, which is an incredibly important part of the whole intercountry adoption world.

But because, as I said, of the way Australia has implemented the Hague convention on intercountry adoption, the two could not be combined. Rather than sacrificing the very important sponsorship and aid program, it was decided to have a separate organisation.

CHAIR—Mrs Roberts, you are quite unique. You are both a birth mother and an adoptive mother.

Mrs Roberts—It is not all that unique. I have met many other women who are in the same situation as myself.

CHAIR—Really?

Mrs Roberts—Yes. I have also met people who are adoptees who also adopt. In the United States when I visited there and attended conferences, I did find a number of other women that were in the same situation.

CHAIR—You are the first one to come before us.

Mrs Roberts—We should have brought some more along. In addressing the area of the relationships of Adoptions International with the authority in Western Australia and its delegates, it has always been very difficult for us in our dealing with the department, mainly because I think at times we have been a thorn in their side and we always endeavour to empower our clients to be able to do whatever they need to do in their relationship with the department. At times there have been very contentious issues.

CHAIR—Like what?

Mrs Roberts—It is difficult to explain, given that the department is here and some of the issues could identify people.

Mrs Rosenwald—Could I just add to this that ultimately the only reason why Adoptions International was established was because of the firm belief that there are many children in the world who are needing a family. You can see the statistics for intercountry adoption in Western Australia. In 1995-96 the statistics show there were only nine. The primary driver, our argument, was, ‘Well, there are many children in the world. There are a lot of people in Australia and Western Australia interested in continuing intercountry adoption, so let’s create an opportunity to take it over from the government that’s obviously not interested in facilitating intercountry adoption and put it in the non-government sector,’ really forever highlighting the fact that there are many children in the world who are in need of a family. That is one of the very contentious issues that we have with the Department of Community Development.

CHAIR—Thank you very much for coming and putting that case. We are very grateful to you for doing so.

Mrs Roberts—It has been a pleasure to be able to come along and speak with you today. We wish you well with whatever comes out of this. I would just like to give my thanks to you also for thinking of the children in foster care and their needs for permanency in their lives. You may be aware of an organisation called CREATE, which is involved with adults and older teenagers who have been in care. They themselves have expressed the need for children to have permanency in their lives, rather than being bandied around from foster family to foster family. Some would rather return to their incompetent parents than be around the traps. You will find that they do have a web site. It is called CREATE.

CHAIR—Thank you very much for that.

[2.15 pm]

NEWBOULD, Ms Jennifer, Manager, Adoption Research and Counselling Service Inc.

CHAIR—Welcome. We have heard that you are a preferred provider, and we have your submission.

Ms Newbould—Our reputation goes before us!

CHAIR—Would you like to make an opening statement?

Ms Newbould—I will be brief. The Adoption Research and Counselling Service, known as ARCS, has been operating for over 20 years in pre- and post-adoption. Our existence started from research connected to UWA in terms of the impact of adoption on relinquishing parents and adopted people. I think the service that we provide is unique, in that we work with all parties to adoption across the whole life span of adoption. On a daily basis in our work we are faced with the lived experience of people who are living with adoption, and for us that means seeing the happiness of adoption and the sadness and pain of adoption. With that experience, I would like to highlight that both exist; that we cannot just have happiness and we cannot just have sadness. They are not mutually exclusive.

We are privileged to meet with people who are living with adoption, and that really informs our work and how we can work with all parties to adoption. Personally, as a worker, to be reminded on a daily basis and see the pain and the experience of a birth parent, an adopted person and an adoptive parent really makes you look at how you are working with people and gives you an insight into how they have to live with adoption.

A point that I wanted to stress today that I feel strongly about is that we need to all be reflective and learn from past practice in adoption and from the personal experiences of those who have lived with adoption. I am thinking in terms of past Australian adoptions, which are not that far past—of the sixties and seventies—and I think that we could draw similarities from those adoption practices to those that exist in some overseas countries at the moment, and I am referring to Korea. We also need to be mindful of the child migrant experience, in that we hear from child migrants about their experience, of the stolen generation and of children in foster care. That is something that I feel very strongly about. The last speaker talked about ‘in the best interests of the child’. It is a mantra but I think it is a mantra that we all should practise.

CHAIR—That is what people do with mantras.

Ms Newbould—Exactly!

CHAIR—They say them a lot, but they mean different things to different people.

Ms Newbould—Yes. I wanted to talk about that a little because, like I said, we work with all parties. A child is in a family and, for me, that means that we need to be providing a service to the family, and that is in the best interests of the child. A child is not in isolation.

CHAIR—That is important. You have given us a new definition.

Ms Newbould—That is my definition.

CHAIR—By giving service to the family, you believe that is in the best interests of the child.

Ms Newbould—I think that is essential for the child. As I say, adoption is a service for the child. Adoption is a lifelong experience, so services need to encompass that and embrace that, and adoption comes from loss. Without loss, we would not have adoption. A child has to lose a family to be adopted.

Looking at the best interests of the child, I want to look at what children have gone through so that we can think about what services we can provide for them and their families. Again, I want to emphasise that. A child is not in isolation. These children have experienced the loss of their birth parents, their country and often their culture. They come with disrupted attachment, often with abandonment issues and identity issues. These issues will continue to arise at different developmental stages and life changes in their lives. That is not to dismiss the loss of birth parents or adoptive parents, because that is also poignant, painful and relevant for the child.

If we are thinking of a service for a child, we need to be thinking that we are not looking for a child for a couple but we are looking for a family—the best family for the child. The child needs to be available for adoption and there need to be support services for the family, both through the process of adoption and afterwards. Finding the best parents sounds easy, but knowing adoptive parents and knowing people before they adopt is very tricky and difficult to be assessed and to be almost cross-examined. It is a very difficult time for them, but I know afterwards, when people have had a child placed with them, they have no regrets. They would have wanted that for their child; that the parents had been truly assessed and judged to be fit and good for that child.

When we are assessing people to adopt, we are not looking to see if they are fit to be parents; we are looking to see if they are fit to be adoptive parents, which is very different. There are additional challenges, so we want them to be fit to be parents and fit to be adoptive parents. We need to know whether they have the capacity to put themselves in the child's place, to see that the child has suffered loss and sadness and to be able to speak about that and to help the child make sense of it. For a child, what goes before the adoption experience is the difficult thing. What happened to the child before they were placed is what they struggle with through their lives. Why was I given away? What was wrong with me? What happened? Who were my parents? Do they think of me?

We need parents that have looked at their own losses and are able to draw on them as strengths. I see people who have been through IVF and infertility treatments. Often they want to put that behind them, understandably, but their experience with that gives them a lot of strength, such that they can interpret loss and interpret grief for their children, with the knowledge that we do get through grief. We would not want it to be a worse experience for adopted children. We want this to be a hopeful and a helpful experience for children.

Children should not have to be accommodating their parents' grief and to be watching out for their parents' grief. When we see adopted adults, often that is something that they have lived with, having to be worried about upsetting their parents by asking questions about their adoption.

They feel that their parents would be sad because they waited so long to have a child. They do not want to cause their parents grief.

CHAIR—Kids give parents grief all the time, adopted or not adopted.

Ms Newbould—Yes, I agree with that. I am talking about the parents' grief and children who see from their parents' faces that they do not want to talk about adoption.

CHAIR—That can happen in all sorts of families because of all sorts of issues. It is not just for that.

Ms Newbould—A lot of this stuff is about parents being able to help their children work through grief. Let me give you an example of what I see a lot from adopted teenagers and adults: they develop this belief, which they have never been able to test and never be able to speak about, that the reason they were given away—and that is using their language—was because there was something wrong with them or they were not good enough and so they were discarded. They keep that belief and build onto that and it is not a helpful belief to have.

CHAIR—There are quite a lot of kids—for instance, if a father leaves a family—who blame themselves: 'What did I do wrong that he left?' It is very similar.

Ms Newbould—Yes. We see children like that. I know it happens. Can I say something about adoptive parents. We are so fortunate. We do some of the education programs. We get people who come in and all they are wanting is a child. All they are thinking about is a child. Through the education program we see them change. These people change to be able to think about that child and put their own needs to the side. They really think about, 'What could I do to make it easier for my child?' I am inspired by people's capacity to change and to understand. If I were here not talking about adoption but talking about something else, I would like all parents to be mindful of their children's internal experiences and how they are making sense of the world and their losses.

CHAIR—There are plenty of kids who suffer miserably as they go through.

Ms Newbould—But that does not make it right.

CHAIR—It is quite important to put it in a general setting.

Ms Newbould—But this is a deliberate decision that we make. We make a deliberate decision to place a child who has already experienced at least one loss and pain in their life. They have already lost one birth parent. They have usually lost carers. They have come from another country. They have had a lot of trauma. We want to do the best we can. We have lots of people who want to adopt. I think the majority of people will be fine if they have education and support.

CHAIR—We had the most delightful young lady, 14 years old, from Ethiopia. She sat there and we asked the parents if it would be all right if she talked. We asked her, 'What does it mean to you to be Australian?' She said: 'It's wonderful. If I'd stayed in Ethiopia, as a woman my life expectancy would be 39.'

Ms Newbould—Exactly.

CHAIR—She said, ‘Now I have a hope and live a great life.’ We asked, ‘What do you want to be when you grow up and leave school?’ She said, ‘I might want to be a rock-and-roll star or a cook.’

Ms Newbould—That is wonderful.

CHAIR—A whole lot of things have opened up for her. Anyone who would say that she would have been better left behind is not thinking.

Ms Newbould—I agree with you but we can make it doubly good, can’t we? That is what I meant at the start: there is happiness, there is hope and there is sadness. We want them to be able to not be held back by their sadness and we want them freed by that. We can work through sadness and the losses they have had, so that they are totally freed. We might not be successful but we can try. I am so lucky with the parents I work with. I can see that they do this and it really makes a difference. I see adoptive parents who are older, like in their 60s and 70s, and they say to me: ‘I wish we’d known that our child had some sadness. All we were told was to get on with it and love our child and forget about adoption, and we wish we knew.’

CHAIR—That was a long time ago.

Ms Newbould—That is what I mean.

CHAIR—Things have changed.

Ms Newbould—No-one knew differently then.

CHAIR—No, they did not.

Ms Newbould—We do the best we can and people will be saying things about us in 20 years.

CHAIR—Of course they will.

Ms Newbould—I can tell that you have heard it all before. I want there to be better post-adoption services. That is what I would like.

CHAIR—What does that mean? What do you want them to do?

Ms Newbould—I am wanting more funding to actually—

CHAIR—No, what do you want the funding to do? What sorts of services do you want?

Ms Newbould—Working with attachment.

CHAIR—That has become the catchcry. I have heard that everywhere. It is new and everybody is picking it up.

Ms Newbould—We have been running attachment workshops for the last six years, so it is not new for us. We need to have more staff. It takes time and we all work incredibly hard.

CHAIR—Do you get government funding?

Ms Newbould—We get \$127,000 a year.

CHAIR—That is more than most support groups get.

Ms Newbould—We are not a support group. We are a professional organisation.

CHAIR—Do you think there is a need for support groups to get some funding?

Ms Newbould—Definitely.

CHAIR—When you are a preferred contractor, what sorts of things do you do?

Ms Newbould—We do everything. We do pre-relinquishment counselling, pre-adoption counselling and support. We work with families with young children and teenagers. We work with adults. We work with people who are having reunions and we work with them post-reunion. We work with people right through from birth to death. We have a library and we run groups, including therapeutic and educational groups.

CHAIR—Are there many of these preferred providers?

Ms Newbould—In adoption?

CHAIR—Yes.

Ms Newbould—There is us and Adoption Support for Families and Children.

CHAIR—We have heard from both of you. How do you measure your outcomes for success? How do you know if you are doing a good job or a bad job?

Ms Newbould—In which area? We have so many different client groups.

CHAIR—Do you only see people who are having problems?

Ms Newbould—No. Children go through different stages where they are capable of understanding different things about adoption and have different questions. People will come to us, say, when a child is six or seven and first really understanding adoption. Parents will come and have one session about how to talk to the child so that it is helpful for them. We will have people in open adoption or having some sort of contact. They will come to us for some sort of support and advice about how that can help the child. It might be the adults wanting it but we have to see how it is for the child and if that is what they want.

CHAIR—Parents will think: ‘I don’t know how to handle this. I can go in there and get some advice.’

Ms Newbould—We do not say, ‘Do this, do that.’ It is more discussion. We are professionals, so we keep up to date with what is happening in adoption research and we do adoption research.

CHAIR—Do you do any of the assessments?

Ms Newbould—No. We deliberately do not do assessments. We support people through assessments sometimes. If they get knocked back from an assessment we would do counselling with them for that because being rejected can be incredibly traumatic for people.

CHAIR—Yes.

Mrs MARKUS—What sorts of accountability processes are in place for your funding? Do you have to give account of key performance indicators?

Ms Newbould—Yes.

Mrs MARKUS—What are they?

Ms Newbould—I do not have our service agreement in front of me. There are differences for the different services we provide. One is the number of counselling sessions we provide. Another is whether people re-access the service: that is to ascertain whether they have confidence in the service. Another is the general number of people who use our service across the board. Another one is that we see all three parties to adoption, so they look at our figures in terms of how representative those groups are. For example, are there adoptive parents, are there birth parents, are there adopted people? We have six-monthly reports and we have reviews of our service every year. The department will come out and look into how we run our service. We also have to report financially and statistically.

Mrs MARKUS—Is that an annual report?

Ms Newbould—Six-monthly reports and 12-monthly reviews.

Mrs MARKUS—Is that permanent ongoing funding?

Ms Newbould—Three years.

Mrs MARKUS—Then you have to reapply at the end of three years, every three years?

Ms Newbould—Yes. This sort of arrangement has been going for 20 years, which can make it quite difficult to plan but it is better than one year.

Mrs MARKUS—How does that happen? Would you be sent a letter saying it is time for you to apply? Or do you just know, every three years, that this is the date that you have to apply?

Ms Newbould—Yes. It is by invitation, so we would be invited to apply to have our funding renewed because of the preferred service provider status.

Mrs MARKUS—How do you obtain that preferred service provider status?

Ms Newbould—I am not from the department.

Mrs MARKUS—You would know what would be required from your organisation?

Ms Newbould—Yes. Let me tell you what has happened. Historically we had funding. As I said, we were established in 1983 so we have a long history of providing adoption services. I think it was in 1995 or 1996 that the government changed from having a submission where you just applied for funding, I think on a yearly basis, to trying to give some stability to non-government agencies by giving them a three-year contract. At that time we applied for preferred service provider status, and that is a lengthy application. That goes to the minister.

Mrs MARKUS—That happened, you say, a decade ago?

Ms Newbould—That happened in 1996, I think, and that has been just every three years. We do not automatically get it every three years. We have to reapply for it. We do not have anything to do with that.

Mrs MARKUS—I understand that.

Mr CADMAN—I am just wondering why you have been successful and others have not been successful. Do you have any ideas?

Ms Newbould—Successful in what?

Mr CADMAN—In receiving funding and licensing accreditation.

Ms Newbould—We do not have licensing accreditation.

CHAIR—No licensing; preferred status.

Mr CADMAN—But you supply consultative services—is that right? That is the way I read it.

Ms Newbould—We provide pre- and post-adoption counselling services and support groups.

Mr CADMAN—Through the department?

Ms Newbould—We are funded partially through the department.

Mr CADMAN—But are you funded to supply those services through the department?

Ms Newbould—Yes.

Mr CADMAN—Does the department say, ‘Will you go and see these people?’

Ms Newbould—They do not say we go and see those people but they fund us to provide those services.

Mr CADMAN—If those people come to you?

Ms Newbould—If they choose to come to us.

Mr CADMAN—They fund you as what—a not-for-profit?

Ms Newbould—Not-for-profit and DGR or DG status, yes.

Mr CADMAN—So there is no official recognition? You have no official status except you get some funding. Is that right?

Ms Newbould—In terms of being a licensed agency?

Mr CADMAN—Recognised by the department: licensed, accredited or anything like that.

Ms Newbould—We have the status of a preferred service provider.

Mr CADMAN—A preferred service provider? So there are preferred and non-preferred. Is that the way it works?

Ms Newbould—I do not know whether there are non-preferred, but there are definitely preferred.

CHAIR—If you are preferred, you get preferences.

Ms Newbould—If you are preferred, you have been chosen.

Mr CADMAN—How many of you are there? How many groups are there preferred?

Ms Newbould—There are only two, but we are quite different. The other preferred service provider is a support group with adoption support for families and we are the other group. I think the way that we have got our funding is because we have a long history of providing the service. From 1982 we have provided this service. The service has increased and diversified in response to people’s needs and we have provided a quality service. We have had to be accountable and we have provided a quality service over those years.

Mr CADMAN—How many professionals do you employ?

Ms Newbould—We have four. Everyone is part time in our service, given the funding.

Mr CADMAN—Four part-timers?

Ms Newbould—Yes.

Mr CADMAN—How big is your membership?

Ms Newbould—We do not have a membership.

Mr CADMAN—So you are a not-for-profit corporation comprising professionals. Is that the way it works?

Ms Newbould—Yes.

Mr CADMAN—Do you have a board or anything like that?

Ms Newbould—We have a board of management, yes. That is made up of people who are either personally involved in adoption or professionally have some knowledge of adoption. Our board of management at the moment is made up of people who have personally had some connection with adoption. We always have it so that everyone is represented.

Mr CADMAN—That is pretty clear, thank you.

Ms Newbould—Thank you for your time.

CHAIR—Thank you very much. We appreciate very much your coming to talk to us.

[2.40 pm]

FRATEL, Ms Anita Maree, Private capacity

CHAIR—Welcome. Do you have any comments to make on the capacity in which you appear?

Ms Fratel—I am an adoptive mother. I have a son who is two years and 11 months old who was adopted from India 11 months ago.

CHAIR—We have your submission, for which we thank you. Would you like to make an opening statement?

Ms Fratel—Thank you, I would. Thank you for the opportunity to come in to speak. It is nerve-racking being the only adoptive parent in Western Australia making a separate submission, but I hope I can advocate for other parents, for those applicants who have not been successful or may have had a difficult time in trying to adopt in WA and also for the children. There are many children within other countries who are in dire need of loving families and I think it is the policies and cultures of certain states that are preventing that from occurring in Western Australia. We have one of the lowest ratios of intercountry adoption per population, and that is pretty sad.

For my husband and me, the adoption of our son is not complete, but his name is Yash Fratel and I will not be intimidated by that stupid law from identifying him. The adoption process has taken three years and nine months. We believe that 12 months of the delay could be directly related to problems experienced with the department in Western Australia which could have been avoided. My main areas of concern about the adoption process in Western Australia are: a pervasive anti-adoption culture amongst some of the staff at DCD adoption services; some glaring inefficiencies which, even when pointed out or politely complained about by prospective parents, continue; and discrimination between some applicants over others and between the states.

My husband and I distinctly remember the first adoption information seminar that we attended at the department. As Colin said this morning, it was like a lecture. A number of us had gathered for comments from on high. From what everyone said afterwards, the message that we all received was that adoption really was not an ethical practice, that few children were available to adopt legally from overseas countries and that, of those attending, very few of us would meet the criteria and be approved to adopt. Many of the people we met at that session immediately abandoned that hope and decided that it was just not going to be a possibility. I think many members of the community are not aware of the difficulties you can experience when you are trying to adopt. Many other parents who would have liked an opportunity to speak are too scared. They fear retribution, particularly if they want to adopt again, so they feel that they are unable to make any complaints and are unable to voice their concerns.

After hearing those sorts of statements at the first lecture, we decided that there was a little bit of bias by some of the staff there. During our time dealing with the department, the culture was

clearly evident: senior staff bias against adoption in general and, more particularly in our circumstances, adoption from India as a sending country. It appears from some of the submissions that you have received that this culture and bias is evident in other states as well.

It is a sad fact that, depending on which state you live in in Australia, you may have a better or a worse chance of adopting at all or adopting from particular countries. In our case it would have been much better to live in South Australia, and the worst option of all would have been to live in Queensland, because there would have been no options there whatsoever.

I think the culture of anti-adoption with some of the staff stems from social worker education, departmental policy and the history of DCD actions within Australia, and personal opinions. I think the culture needs to be changed or the adoption service provider needs to change—that is, to the private sector. Many prospective and adoptive parents are in contact with hundreds of other parents on the internet. Many of the South Australian parents were very happy with the private sector provider, particularly as they had a very good rapport with the overseas sending countries, they had a stable staff for many years, which was of benefit in their knowledge base and in their rapport with those countries, and they provided an excellent service because, being adoptive parents themselves, they knew many of the issues in a more practical manner. Although they had professional staff, hands-on experience is also of great benefit.

In relation to adoption from India, at the time we adopted, in South Australia on average it took about 18 months, so our three years and nine months was a long time. During our adoption process—and I want to say that it was not all bad; I do not want to appear to be a total whinger—one of the difficulties we had, which could be addressed with change, is that we had nine program managers for India during three and a half years. Each program manager had a different perspective on adoption and a different level of experience with adoptions. Many of those managers were new graduates with no experience in adoptions. Other staff appeared to be moved from the very stressful area of child protection, perhaps for a bit of a rest in adoptions.

Some of the culture problems, I think, stem from the very important work the department does in child protection, but that work also treats members of the public—prospective parents—with some suspicion and with an attitude less than you would expect with the words ‘adoption service’. The changes in staff at the department have resulted in poor service, delays, lack of continuity with us and much confusion in India as to who they are dealing with, particularly with seven different states having seven different people approaching them for adoptions.

We also experienced delays with the adoption service’s procedures and some inefficiencies, in that we made our initial inquiry and then waited two months till the first compulsory seminar and then waited three months for a medical panel to sit and review our medical assessments. They requested further information. They asked for a report from a consultant doctor that I was seeing. They refused to pay for that report after they had asked for it and then we had to wait for them to resit. There were longer delays over Christmas and there ended up being another two months delay waiting for this crucial aspect of the process. Meanwhile, lots of children were sitting in overseas countries in institutional care.

Then there was a delay for assessment by a social worker in the house. We live in Mandurah, which is an hour and a half south of Perth. It is classified as the country. Our assessment was to be referred to the Mandurah Department for Community Development. I telephoned to organise

the assessment and was told that there was no-one qualified to do it and that, even if there was someone qualified, they would be too busy, that adoption was not a priority and that we could expect a wait of five or six months before they would get a qualified staff member to do the assessment. This was when I first made a complaint. An assessor was then contracted in by the department.

At our first session she advised that she was the ‘gun’ assessor for the department and that she had been contracted in because I was a bit of a problem. This did not go down well with me. The usual time frame to write an assessment report is six to eight weeks. Our assessment took five months. Also at that first meeting the assessor advised us that adoption was middle-class people getting what they want. We sensed a bit of a bias and were a bit nervous about the rest of the assessment. Sometimes she would remain in our house for seven hours and it was unnecessarily stressful and intrusive. You feel so vulnerable that if you make a complaint that this is too long it will be held against you. We did actually have some other things to do.

In her final report there were many incorrect factual assertions. You get little chance to redress them. We were invited to a meeting with a senior staff member at DCD, the assessor and ourselves. We virtually had to fight about comments that were incorrect. They were in fact made about other people. For example, the assessor said we had a four-bedroom home. Considering that she spent 38 hours with us and toured the home three times, she probably noticed that we only had three. She said there was a history of domestic violence with my grandparents. It was not true and it would have been a very adverse comment to have in our report. She said that we employed staff. We have a cleaner come to the house for two hours once a fortnight and at the time I had a man doing some pruning, but they are not my employed staff. It was a very strange comment to make. They were only some of the assertions that she made in her report.

She commented on a lot of medical information which she was not qualified to comment upon. You may be aware that the Rhesus factor affects 40 or 50 per cent of the population. She described it as a hereditary genetic condition in my family which was an adverse health condition, even though I explained it to her several times and provided information against this. She refused to accept that.

In some areas the department lacks a customer culture. They have poor understanding of how to measure their service for quality or how to benchmark their service against other services in Australia. We were chastised for making complaints. We complained about issues later on. We were asked did we not know the staff were very busy and if we made complaints we were taking staff away from other parents to deal with us—did we want other people to suffer? They were unaware of their own customer charter, which pointed out several areas where you could make a complaint, and instead informed us that you had to speak to either the manager of the department or the director-general; there was nowhere else you could go. There is, in fact, a customer advocate and there is always the minister and various other bodies that people could complain to.

When querying the quality of the service compared to other services and why there was a difference in adopting from India in Western Australia compared to other states, I asked for copies of policy documents and for evidence that their service was provided in the most beneficial way. I was informed by senior staff that they were not subject to FOI and for that reason policies would not be provided to me. I reiterated later in an email that in fact they were subject to FOI. I did not get a reply. I was informed that they were not accountable to anybody.

As a taxpayer I found that offensive. They felt they had no need to compare procedures or policies with other Australian states as the quality of their service was evident by doing more adoptions now than before. The quantity of the work you are doing has no reference or value to the quality of the work that you are doing.

Another staff member said to us that they had no time to seek out Indian orphanages that were willing to adopt to Australia. Therefore, if we wanted to adopt from India, as long as we made appropriate inquiries we could do it ourselves and get back to them once we found out the information. We provided some information to them about agencies that were interested in receiving files from Australia. After some delay we were then informed that they had not responded to those inquiries because they did not know the names and addresses or phone numbers of those orphanages, even though they are available from the Indian phone book on the internet and from the Central Adoption Resource Agency, which is the Indian government department dealing with adoptions.

After more frustration, unfortunately we experienced some threats. I was asked in one telephone conversation: did I not know that if an adoption was granted to us the department had the power to follow up and monitor that adoption for six months at least following placement and that they did have the power to remove a child from what they deemed as unsuitable parents? Later, in a dispute about when we were going to leave the country to collect our child, I was again threatened that we were leaving Australia without their permission. When I replied that people can actually leave Australia without the Department for Community Development's permission and they do it all the time, I was told that the staff member would fax the orphanage immediately and advise that we were now considered unsuitable parents for adoption. This was after waiting for our son for 11 months and having a very strong bond with him and being fully approved to adopt. I think this threat was thrown out to control us.

Much of their work is carried out in secrecy. We understand that allocations are received by the department and then the department discusses and decides upon an allocation without any input or involvement from the prospective parents who will have the lifelong responsibility of caring for such a child. Most of us are not stupid and we have given a lot of thought to adopting a child, particularly if we have informed them that we will adopt a child with special needs. We should have some role in decisions as to whether or not an allocation is appropriate. The discussion about whether an allocation is appropriate, particularly with medical information, should not be undertaken by social workers alone, because they do not have any medical expertise in those areas.

When I have asked for policies on why they did not want to adopt from India, what problems they had with particular orphanages in India or the department's policy on recent activities in India, I was told that policies would not be provided to me. Unfortunately, we have talked with other couples and found that they have been given the wrong information. Even people present today have been told that the Indian adoption service has been closed. This is not true. They have been told that Indian adoption is going to be centralised and all the Australian states are waiting for that to happen before any further adoptions will occur. That is not true. It is true that CARA has discussed that as a possible intervention, but the director of CARA said at the Adelaide adoption conference recently that that would take at least 10 years to implement, due to the bureaucratic difficulties that they experience in India. In fact, she expected more children to become available for adoption in the short term.

Our application was adversely affected by the fact that the department was unaware of Indian government law changes and changes to the adoption process which were displayed on the CARA web site on the internet for four weeks. The department was still acting under previous instructions and a staff member said she was not aware of the CARA web site.

Some parents, including ourselves, have found staff attitudes to be condescending and arrogant. Staff offered a particular Indian orphanage to us as a suitable place to adopt from. We paid for documents to be notarised by a public notary. It cost us \$600. They then informed us that they were the wrong documents and that we were not to adopt from that agency because they had changed their mind and the agency was now unsuitable. I asked them why they were unsuitable and I was given some wishy-washy comments but nothing specific. There was no evidence; it was uncorroborated. Every other Australian state and 21 other countries in the world were adopting from this orphanage, yet Western Australia refused. When I questioned this I was told that Western Australia was the most ethical of adoption bodies and therefore we stood bravely against the world.

Because of my problems with the department, I wrote to the Central Adoption Resource Agency in India and asked them for information about the orphanage. Was it unreliable? Had it been licensed? Had it been scrutinised? Had they experienced any problems? They were interested in the information that was provided by the department and found that the orphanage concerned had been operating for 25 years. They had been routinely audited and were found to have no problems. They have recently been issued with two new licences for orphanages in other states.

They are sponsored by leading world companies, such as the HSBC Bank, who have completely scrutinised their activities and have decided to offer ongoing aid, and they have now taken over state government child welfare services in Maharashtra and sent that to this particular orphanage. If they had an unsuitable or unsavoury reputation I think it would have been identified by now. Without adoption support networks in Western Australia through AIWA and ASFC, and without extreme perseverance and strength, we will not achieve an Indian adoption in Western Australia and we will have a lot of trouble in doing any other adoption.

I will finish by saying that our little boy arrived in November 2004. He was 23 months old and he had been in institutional care in an orphanage in India. When he arrived, he weighed 7.9 kilos. He was severely underweight, underheight and malnourished. He had scabies, nits and impetigo and he could not walk. He had developmental delays, lack of muscle tone and gut problems. Ten months later, he is normal weight and height, with normal physical development. He is completely healthy, confident and outgoing. He is a happy little bunny. I think the importance of a family for these children who have no alternative but institutional care cannot be underestimated. Thank you.

CHAIR—Thank you very much. That is a very comprehensive statement. You have detailed a lot of areas where it seems that individual attitudes become quite dominant and affect the way the whole program is administered. They have no basis in law, policy or anything else.

Mr CADMAN—You have made a lot of assertions about the department in your presentation. I gained the impression that you have a group of people who are not really endorsing adoption at all.

Ms Fratel—It seems, yes, in the comments that they make, that they would rather see children remain in their own country—which we all would—and that it would be better for us to send aid to these countries to allow their population to adopt the children. But in some cultures adoption is not as welcome as in others. In some countries the particular gender or, in our son's case, poverty, or the wrong caste or ill health would be enough to mean that his biological parents were unable to care for him.

Mr CADMAN—If you could have adopted within Australia, would you have done so?

Ms Fratel—Yes. We initially looked at that, but we virtually thought that was impossible. We have Indian heritage in my husband's family and we were initially told that that would mean a fairly straightforward and quick adoption from India, as he would be treated as a non-resident Indian citizen.

Mr CADMAN—You may not want to answer this question—and I do not mind if you do not. Were you involved in the IVF program?

Ms Fratel—No. We were infertile. I had some illnesses which prevented fertility. I had five miscarriages and we were looking towards the IVF program when we thought we would make some inquiries about adoption.

Mr CADMAN—Thank you for being so frank.

Ms Fratel—I would like to add a few rebuttals to what happened this morning. With the pregnancy test, I was asked for a pregnancy test in the week prior to travelling to collect our child, even though the department had a document saying that I had a complete hysterectomy and uterectomy, and I pointed out to the workers that it was physically impossible for me to be pregnant. I still had to go to the doctor and get a certificate, I was told.

CHAIR—Did you get a certificate that you had had the hysterectomy?

Ms Fratel—I just re-sent the letter from my medical, stating that I had had the procedure. Regarding the department of immigration costs, the visa cost for an adopted child is \$1,305 in Australia, but an orphaned relative child is \$800. It would be interesting to know why there is a difference when procedures would be pretty much the same. It also produces some difficulties for adoptive parents, in that the DIMIA office closed every Wednesday afternoon.

Mr CADMAN—That probably relates to the type of immigration program. The family reunion would be one and the other one would be an independent sponsorship, and they are standard fees across the board, not specially selected for adoptive parents. Whether or not that is appropriate is a different matter. But I do not think you have been targeted in any way. I think they are consistent fees for everybody, whether it is for adoption or not.

Mrs MARKUS—Did you say the DIMIA office was closed on Wednesdays?

Ms Fratel—Wednesday afternoons. It seems strange for a government department.

CHAIR—Yes.

Mr CADMAN—Client-free days!

Ms Fratel—In relation to the South Australian licence, anecdotally, from other parents, the feeling was that there were politics involved and that governments there did not want to be the only state in Australia with a private not-for-profit agency. But I think it is important to have choice. We have a choice of whether we want to go to a private or public hospital; whether we want to have private or public education. Particularly where you have perhaps not been offered a good service by a department, you should have a choice about who is involved in such an important decision as an adoption.

Mr CADMAN—Seven hours is a bit of a tough stint. I would not like to do that.

Ms Fratel—It was pretty hard. And she thought I was under stress!

Mrs MARKUS—Anita, may I say as a previous practising social worker—dare I say—I have done many assessments for courts over my 25 years and I never needed to spend seven hours in the home of somebody to do an adequate report.

Ms Fratel—I am not full of criticism for the department. I do not want to appear that way. Many of the things they have done are very good and I can see that they are trying to make some improvements. But I hope the committee can bring some really strong change right across Australia.

CHAIR—We are grateful to you for coming in and speaking very openly, and not being intimidated. That is very important, because right across Australia we keep hearing that word ‘fear’ and hearing of intimidation. That is certainly not the way we want the citizens of Australia to be in any relationship with any government.

Ms Fratel—We would like to adopt again. If there is any retribution, I will come pounding on your doors for help. We did receive a lot of help from other politicians and other areas within Australia and from other parents. Without it you would not achieve adoption, because knowledge is power.

CHAIR—Yes, it is.

Mrs MARKUS—Thank you, Anita.

CHAIR—Yes, thank you very much.

Mr CADMAN—Thank you.

CHAIR—We have some documents from Adoptions International of Western Australia that we would like to accept as exhibits. There being no objection, that is so ordered. I thank everyone for their attendance today.

Resolved (on motion by **Mrs Markus**):

That this committee authorises publication, including publication on the parliamentary database, of the proof transcript of the evidence given before it at public hearing this day.

Evidence was then taken in camera—

Committee adjourned at 3.34 pm