

Committee Secretary
Standing Committee on Family and Human Services
House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

21 April 2005

Dear Secretary,

Re : Inquiry into adoption of children from overseas

The Australian Society for Intercountry Aid for Children (NSW) Inc, "ASIAC", welcomes this inquiry into intercountry adoption. We thank you for the opportunity to make a submission. We hope that the outcome of this inquiry will be that it is easier to form families through intercountry adoption.

We note the terms of reference as follows:

The Committee shall 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.*

ASIAC is the largest family support group for intercountry adoption in NSW and is a voluntary non-profit organisation. Its members are people who have adopted or are looking to adopt a child from an overseas country, in particular China, India, Korea, The Philippines, Taiwan and Thailand.

ASIAC's philosophy is that every child, regardless of colour, race or creed, has a right to a family life in which he or she may develop to his or her potential. ASIAC aims to:

- inform, assist and give support to prospective adoptive parents to adopt children from overseas
- to encourage contact between adoptive families
- to promote understanding of intercountry adoption both in Australia and overseas
- to provide support to needy children in overseas countries
- to assist in self-help programs in those countries.

How can the Australian Government better assist Australians who are adopting or have adopted children from overseas countries?

Firstly, we believe that commonwealth, state and territory governments have a valid and important role in negotiating and providing intercountry adoption programs. Intercountry adoption is an important service to the Australian community- it helps parents and children come together to form families and share a lifetime of love.

ASIAC believes there would be benefits in the Commonwealth taking a more active role in intercountry adoption, particularly in the investigation and establishment of new programs.

The Commonwealth could also provide leadership in calling on states and territories to examine and simplify current administrative arrangements and give appropriate consideration to development of national policy frameworks in consultation with parent groups.

The Commonwealth could abolish fees levied by their departments on adoption applications for visa processing.

It could also restore tax deductibility for adoption expenses. The provisions allowing a rebate for adoption expenses commenced in 1975-76 and were terminated in 1985-86. The rebate had considered a range of expenses including medical expenses, life insurance premiums, education and adoption expenses. These expenses continue in the present day. Many western countries such as the United States of America and Canada provide similar rebates.

The Commonwealth could also provide support to community and parent support groups and ensure appropriate consultation occurs in relation to intercountry adoption issues. Additional support for families post adoption would also be beneficial.

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

There is a vast range of inconsistencies between current state and territory approval processes for overseas adoption. These range from the age of adoptive parents, their marital status, length of marriage, number of children in the family, age of child to be adopted, number of children to be adopted, and the applicants' health and weight.

Resources provided for adoption programs also vary significantly between jurisdictions. Programs in some jurisdictions such as Queensland have been closed for long periods of time, and many states have waiting lists of several years for some programs.

There are huge variations in fees charged by government departments which range from around \$2,000 in Queensland and the ACT through to those charged by NSW at \$ 9,700.

Legislative frameworks vary significantly across the states and territories, providing completely different systems for application and post placement arrangements.

These complex and different systems mean that some parents have moved from one jurisdiction to another in order to adopt because of issues such as age restrictions, or in the case of Queensland, unjustifiable delays in assessment. On the other hand, some parents are prevented from moving interstate to pursue employment options because it would jeopardise arrangements for their adoption - for example during the assessment, waiting or post placement period.

Arrangements for finalising adoption also vary between countries and between states. In NSW, adoption orders for children adopted from Korea, Taiwan and the Philippines are made in the NSW Supreme Court. Therefore the new NSW Adoption Act 2000 applies, preventing parents from changing or adding a name to that given in their country of birth. This is not the case in other jurisdictions and is a significant and distressing issue for many adoptive families.

Adoptive parents must also provide an undertaking for one parent to remain at home with the child to enhance bonding and attachment. The requirements for this vary between 6-12 months. This requirement provides further financial hardship for families who have already faced costs in the order of \$25,000 to \$30,000 per adoption.

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.

There are a number of inconsistencies relating to the Maternity Payment and baby bonus. Restrictions relating to the age of the child (currently set at 26 weeks) should be abolished. Very few intercountry adoptions occur before this age. There is also a need to clarify current rulings by the ATO relating to "custody " of a child. For those children adopted from Korea, Philippines and Taiwan, adoption orders are made by the NSW Supreme Court some 18 months to 2 years after the child enters Australia. In comparison, other intercountry programs such as the China program complete the adoption orders in China when parents travel to pick up the child. The ATO has determined that the adoption order should be made prior to the granting of maternity payments and baby bonus thereby creating long delays and confusion for adoptive parents.

The Commonwealth should legislate to ensure that arrangements for paid and unpaid adoption leave are equivalent to maternity leave and ensure that

future enhancements to maternity leave automatically flow on to adoption leave. It should also remove restrictions to these entitlements relating to the age of the child adopted.

In addition, the Commonwealth government should ensure that :

- Medicare staff are familiar with the requirement for adopted children to be given equal treatment to birth children
- Private health funds are familiar with the requirement for adopted children to be given equal treatment to birth children
- Administrative arrangements are changed to ensure that confusion over the status of a child's immunisation given overseas does not adversely impact on access to childcare benefit.

Summary and recommendations

The current arrangements for intercountry adoption programs have resulted in a system that is complex, inconsistent, burdened by delays (with applications often taking years to complete) and hugely expensive. Recent changes by some governments to move to cost recovery arrangements have resulted in even greater burdens on families seeking to adopt.

We would welcome greater cooperation between Australian governments to improve intercountry adoption for those seeking to adopt and those who have already formed a family through adoption.

ASIAC makes the following recommendations to the inquiry in relation to intercountry adoption:

State, Territory and Commonwealth governments should work together to :

- simplify current administrative arrangements for intercountry adoption
- provide greater choice of intercountry adoption providers
- provide greater choice in availability and range of intercountry adoption programs
- reduce current delays
- decrease the huge costs associated with adoption
- remove current discriminatory practices relating to adoption leave
- remove barriers preventing access to government benefits such as the baby bonus and maternity benefit
- provide additional support and incentives for parents seeking to adopt from overseas- for example tax deductibility of adoption expenses
- provide greater support for families post adoption
- enhance involvement of existing community and parent support groups in determining adoption policy

We thank you for the opportunity to provide comment to the Committee. We would be happy to discuss these issues in more detail or provide additional supporting information. We would also be prepared to make ourselves available to the Committee if required.

Tim O'Reilly

Secretary

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