

# **Australian Government response**

**to the**

# **Senate Community Affairs References**

# **Committee Report:**

*Commonwealth Contribution to Former Forced Adoption Policies and Practices*

## **Introduction**

The Australian Government welcomes the Senate Community Affairs References Committee's report on the Commonwealth Contribution to Former Forced Adoption Policies and Practices (the Report). The Australian Government thanks the Committee members for their efforts in bringing to light widespread practices that resulted in the forced separation of countless mothers from their babies.

Forced adoption policies and practices were widespread throughout Australia particularly during the period from the 1950s to the early 1970s. An estimated 140,000 to 150,000 adoptions occurred in Australia between 1951 and 1975. Many of the babies were born to unwed mothers. The shame and silence that surrounded pregnancy out of wedlock meant that these mothers were viewed as 'undeserving' and their babies removed and given to married couples.

The number affected by forced adoption practices is even greater when one includes adoptees, fathers and extended family members. The Committee highlighted the ripple effect through families of practices that were unethical and in many cases illegal.

The wealth of evidence submitted to the Committee can leave no doubt that many were treated appallingly. Mothers were not informed of their rights, did not provide informed consent, were given false assurances, denied care and support and endured pressure, mistreatment and coercion. Mothers were left feeling stigmatised and disempowered.

Many of those adopted and removed recounted damaging and painful experiences of their childhoods, and ongoing struggles with self-identify, mental and physical health, and seeking to meet or build a relationship with their parents.

The Committee provides a number of insights into the ongoing nature of the trauma caused by forced adoption, and the consequent need for specific counselling services by well-trained and experienced professionals.

The compelling testimonies to the Committee from those affected tell a moving story of the pain and suffering many experienced and continue to experience; of the life-long impacts that they, and their families, continue to endure.

The Australian Institute of Family Studies (AIFS) National Research Study on the Service Response to Past Adoption Practices, found that mothers had a higher than average likelihood of suffering from a mental health disorder compared to the general population.

In addition, the AIFS study found that the longer term effects of adoption (both positive and negative) were significant for many adoptees, with those surveyed having lower levels of wellbeing and higher levels of psychological distress when compared to Australian population estimates. Many had issues associated with attachment, identity, abandonment and the parenting of their own children.

Central to the Australian Government's response to the Committee's report is the national apology to the people affected by forced adoption. The apology will be delivered by the Prime Minister on behalf of the nation on 21 March 2013.

The apology is offered as a significant step in the healing process for those affected. It will also help the community understand the experiences of those affected and the lifelong pain and suffering many continue to endure.

The Australian Government recognises the importance of concrete measures to accompany the national apology as part of the national framework to address the consequences of forced adoption. It has allocated \$11.5 million over the next four years for concrete measures to assist those affected by forced adoption practices as part of its response to the recommendations contained in the Senate Report. These measures will provide further support to those affected.

The Australian Government will provide \$5 million to improve access to specialist support services, peer and professional counselling support and records tracing support for those affected by forced adoptions. It will also provide \$5 million for the development of guidelines and training materials for mental health professionals to assist in the diagnosis, treatment and care of those affected by forced adoption practices and increase the capacity of the Access to Allied Psychological Services (ATAPS) program to deliver psychological services to this target group in the immediate post apology period, while specialist support and counselling services are being established.

The Australian Government has provided funding of \$1.5 million to the National Archives of Australia to deliver a Forced Adoption Experiences History Project. This will include an exhibition to increase awareness and understanding of the experiences of individuals affected by forced adoption practices and a website to identify and share stories of experiences.

The Australian Government will continue to work with the states and territories to address these issues, in particular through the Standing Council on Community and Disability Services and senior officials represented by the Standing Council on Community and Disability Services Advisory Council.

The Government acknowledges the shameful mistakes of the past and is committed to ensuring that all those affected by forced adoption practices have access to sufficient support and counselling services and improved access to information and records.

## **Response to the recommendations**

The Australian Government has considered the 20 recommendations made in the report and provides the following responses.

### **Recommendation 1**

The committee recommends that a national framework to address the consequences of former forced adoption be developed by the Commonwealth, States and Territories through the Community and Disability Services Ministers Conference.

#### **Response to recommendation 1**

The Australian Government agrees with this recommendation in principle but notes this is also a matter for the states and territories.

The national framework will be progressed through the Standing Council on Community and Disability Services (formerly known as the Community and Disability Services Ministers' Conference) in 2013 and will comprise the following key elements:

- The national, state and territory apologies;
- The establishment of a suite of specialist services to support those affected by forced adoption practices;
- Working towards harmonisation of birth records and re-connection services between state and territory jurisdictions; and
- the National Archives Forced Adoption Experiences History Project.

### **Recommendation 2**

The committee recommends that the Commonwealth Government issue a formal statement of apology that identifies the actions and policies that resulted in forced adoption and acknowledges, on behalf of the nation, the harm suffered by many parents whose children were forcibly removed and by the children who were separated from their parents.

#### **Response to recommendation 2**

The Australian Government agrees with this recommendation.

On 19 December 2012, the former Attorney-General, the Hon Nicola Roxon MP, announced that the Australian Government's formal apology on behalf of the nation would be offered to those affected by forced adoption on 21 March 2013 at Parliament House in Canberra.

The former Attorney-General received advice on the wording of the apology and associated events from the Forced Adoptions Apology Reference Group ('the Reference Group'), which was chaired by the Honourable Nahum Mushin, former Family Court Judge and Adjunct Professor of Law at Monash University, and included people directly affected by forced adoption.

The work of the Reference Group was informed by 48 face to face consultations with individuals and groups across Australia and over 300 written and email submissions on what the apology should contain.

### **Recommendation 3**

The committee recommends that State and Territory governments and non-government institutions that administered adoptions should issue formal statements of apology that acknowledge practices that were illegal or unethical, as well as other practices that contributed to the harm suffered by many parents whose children were forcibly removed and by the children who were separated from their parents.

#### **Response to recommendation 3**

The Australian Government agrees in principle with this recommendation, but notes that statements of apology from state and territory governments and non-government institutions are a matter for those institutions.

In April 2012, the Attorney-General wrote to state and territory attorneys general and community ministers asking them to consider whether a public apology would be appropriate in their jurisdictions. Apologies for forced adoption practices have been made by the Governments of each state and the Australian Capital Territory.

The Australian Government notes that some non-government institutions have also delivered apologies or announced an intention to apologise.

### **Recommendation 4**

The committee recommends that apologies by the Commonwealth or by other governments and institutions should satisfy the five criteria for formal apologies set out by the Canadian Law Commission and previously noted by the Senate Community Affairs Committee.

### **Recommendation 5**

The committee recommends that official apologies should include statements that take responsibility for the past policy choices made by institutions' leaders and staff, and not be qualified by reference to values or professional practice during the period in question.

#### **Response to recommendations 4 and 5**

The Australian Government agrees in principle with recommendations four and five but notes that statements of apology and the respective wording from state and territory governments and non-government institutions are a matter for those institutions.

The Reference Group has advised the Australian Government on the content of the national apology. The Reference Group considered the five criteria for formal apologies set out by the Canadian Law Commission during its development of its advice to the Australian Government on the apology content. A major focus of the Reference Group was ensuring that the national apology will not be qualified by the reference to past values or practice.

In April 2012, the Attorney-General wrote to state and territory attorneys general and community ministers asking them to consider whether a public apology would be appropriate in their jurisdictions. Apologies for forced adoption practices have been made by the Governments of each state and the ACT.

The Australian Government notes that some non-government institutions have also delivered apologies or announced an intention to apologise and some have implemented the principles outlined in the recommendations into their statements of apology.

### **Recommendation 6**

The committee recommends that formal apologies should always be accompanied by undertakings to take concrete actions that offer appropriate redress for past mistakes.

#### **Response to recommendation 6**

The Australian Government agrees with this recommendation.

The Australian Government's response to the Committee's report will form the basis of these concrete measures (see response to recommendations 8 and 20).

In particular, the Australian Government has committed \$11.5 million:

- \$5 million over 4 years to improve access to specialist support services, peer and professional counselling support and records tracing support for people affected by forced adoptions
- \$5 million for the development of guidelines and training materials for mental health professionals to assist in the diagnosis, treatment and care of those affected and increase the capacity of the Access to Allied Psychological Services (ATAPS) program to deliver psychological services to this target group in the immediate post apology period, while specialist support and counselling services are being established, and
- \$1.5 million to the National Archives of Australia to deliver a Forced Adoption Experiences History Project.

### **Recommendation 7**

The committee recommends that a Commonwealth formal apology be presented in a range of forms, and be widely published.

#### **Response to recommendation 7**

The Australian Government agrees with this recommendation.

The national apology will be accessible to all interested Australians. Comprehensive information about the apology is available on the Attorney-General's Department website. The apology will be publicised and broadcast over various mediums. Additionally, the event will be accessible for people with hearing difficulties and a DVD of the apology will be produced. The exhibition by the National Archives of Australia will also focus on the apology.

### **Recommendation 8**

The committee recommends that the Commonwealth, States and Territories urgently determine a process to establish affordable and regionally available specialised professional support and counselling services to address the specific needs of those affected by former forced adoption policies and practices.

### Response to recommendation 8

The Australian Government agrees in principle with this recommendation.

The Australian Government recognises the importance of specialised support and counselling services and will be contributing \$5 million over four years to deliver a suite of services for those affected by former forced adoption policies and practices.

In addition, the Australian Government will provide funding of \$5 million over four years for the development of guidelines and training materials for mental health professionals to assist in the treatment of those affected and increase capacity of the Access to Allied Psychological Services (ATAPS) program to deliver psychological services to this target group in the immediate post apology period, while the specialist support and counselling services are being established.

The Australian, state and territory governments commissioned the Australian Institute of Family Studies (AIFS) to undertake a National Research Study on the Service Response to Past Adoption Practices. This study was published in August 2012 and found that the availability of one-to-one support and counselling interventions delivered by professionals who had specialised training or experience in adoption-related issues such as trauma, relational and attachment focused theory, was a key service need (2012:9).

All states and territories currently fund some level of services to support those affected by forced adoption policies and practices. The Australian Government will work with state and territory governments to undertake a scoping study of the services currently available and gaps in the service system for those affected by forced adoption practices.

### Recommendation 9

The committee recommends that the Commonwealth fund peer-support groups that assist people affected by former forced adoption policies and practices to deliver services in the areas of:

- promoting public awareness of the issues;
- documenting evidence;
- assisting with information searches; and
- organising memorial events;

And that this funding be provided according to transparent application criteria.

### Response to recommendation 9

The Australian Government agrees in principle with this recommendation.

The Australian Government recognises that peer support groups can be effective in supporting vulnerable people with shared experiences.

The AIFS National Research Study on the Service Response to Past Adoption Practices (2012:185) affirmed that there is a role for peer support models to assist people affected by former forced adoption policies and practices. The study identified that a number of groups have already been established in metropolitan areas and proposed an option of incorporating adoption-related

peer support services into existing services such as family support, parenting or phone line services.

All states and territories currently fund some level of services to support those affected by forced adoption policies and practices. The Australian Government will work with state and territory governments to undertake a scoping study of the services currently available and gaps in the service system for those affected by forced adoption practices.

The findings of the scoping study will inform governments' considerations of how to best integrate and complement the Australian Government \$10 million support package and existing Australian, state and territory government peer support services.

### **Recommendation 10**

The committee recommends that financial contributions be sought from state and territory governments, institutions, and organisations that were involved in the practice of placing children of single mothers for adoption to support the funding of services described in the previous two recommendations.

#### **Response to recommendation 10**

The Australian Government agrees in principle with this recommendation.

All jurisdictions have some existing post adoption support services and many have funded additional services as part of their forced adoptions apologies.

It is expected that the Australian Government will progress this work through the Standing Council on Community and Disability Services and senior officials represented by the Standing Council on Community and Disability Services Advisory Council.

### **Recommendation 11**

The committee recommends that the Commonwealth should lead discussions with states and territories to consider the issues surrounding the establishment and funding of financial reparation schemes.

### **Recommendation 12**

The committee recommends that institutions and governments that had responsibility for adoption activities in the period from the 1950s to the 1970s establish grievance mechanisms that will allow the hearing of complaints and, where evidence is established of wrongdoing, ensure redress is available. Accessing grievance mechanisms should not be conditional on waiving any right to legal action.

#### **Response to recommendations 11 and 12**

The Australian Government notes recommendations 11 and 12.

Reparation and redress schemes are matters for each state and territory government and relevant non-government organisations.

The Australian Government led discussion about these recommendations at the Standing Council on Law and Justice (SCLJ) meeting on 5 October 2012. At that meeting, these recommendations were referred to the Standing Council on Community and Disability Services (formerly known as the Community and Disability Services Ministers' Conference) for further consideration.



### **Recommendation 13**

The committee recommends that:

- all jurisdictions adopt integrated birth certificates, that these be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates, and
- jurisdictions investigate harmonisation of births, deaths and marriages register access and the facilitation of a single national access point to those registers.

### **Recommendation 14**

The committee recommends that:

- all jurisdictions adopt a process for allowing the names of fathers to be added to original birth certificates of children who were subsequently adopted and for whom fathers' identities were not originally recorded; and
- provided that any prescribed conditions are met, the process be administrative and not require an order of a court.

#### **Response to recommendations 13 and 14**

The Australian Government agrees in principle with recommendations 13 and 14, but notes that birth certificates and births, deaths and marriage registers are the responsibility of state and territory governments.

The Australian Government led discussions with the states and territories about these recommendations at the Standing Council on Law and Justice on 5 October 2012. At that meeting, agreement was reached for an officer level working group to examine these recommendations. The Group will report back with progress in early 2013.

### **Recommendation 15**

The committee recommends that the Community and Disability Services Ministers Conference agree on, and implement in their jurisdictions, new principles to govern post-adoption information and contact for pre-reform era adoptions, and that these principles include that:

- all adult parties to an adoption be permitted identifying information;
- all parties have an ability to regulate contact, but that there be an upper limit on how long restrictions on contact can be in place without renewal; and
- all jurisdictions provide an information and mediation service to assist parties to adoption who are seeking information and contact.

#### **Response to recommendation 15**

The Australian Government agrees in principle with this recommendation, but notes that this is also a matter for the states and territories.

As recommended by the Committee, it is expected that the Australian Government will progress this work through the Standing Council on Community and Disability Services and senior officials represented by the Standing Council on Community and Disability Services Advisory Council.

## **Recommendation 16**

The committee recommends that the Commonwealth provide funding to extend the existing program for family tracing and support services to include adoption records and policies, with organisations such as Link-Up Queensland and Jigsaw used as a blueprint.

### **Response to recommendation 16**

The Australian Government agrees in principle with this recommendation.

The Australian Institute of Family Studies National Research Study on the Service Response to Past Adoption Practices (2012:175) found that over half of the adopted individuals and almost 70 per cent of mothers had used search and contact services. The study suggested the need for improvements to the navigation of the search and contact service system and the need for support and guidance from experienced professionals.

The scoping study of the current service system (as proposed in response to recommendations 8 and 9) will include an exploration of family tracing and support services such as Link-Up Queensland and Jigsaw.

The findings of the scoping study will inform governments' considerations of how to best integrate and complement the Australian Government \$10 million support package and existing search and contact services.

## **Recommendation 17**

The committee recommends that the states and territories extend their Find and Connect information service to include adoption service providers.

### **Response to recommendation 17**

The Australian Government agrees in principle with this recommendation, but notes this is a matter for the states and territories.

The Australian Government has established the Find and Connect network of support services to provide specialist trauma informed counselling as well as records tracing, supported release and peer support tailored to the needs of Forgotten Australians and Former Child Migrants. Foundational to the Find and Connect network of support services is the Find and Connect web resource. This web resource demonstrates an effective model for making information and records relating to past providers of 'care' available to care leavers.

The scoping study of the current service system (as proposed in response to recommendations 8, 9 and 16) will include an exploration of existing Australian, state and territory government information services supporting those affected by forced adoption practices.

The findings of this exploration will inform governments' considerations on improving information services and actioning this recommendation will require consideration of the response to Recommendation 10.

## **Recommendation 18**

The committee recommends that non-government organisations with responsibility for former adoption service providers (such as private hospitals or maternity homes) establish projects to identify all records still in their possession, make information about those institutions and records available to state and territory Find and Connect services, and provide free access to individuals seeking their own records.

### **Response to recommendation 18**

The Australian Government agrees in principle with this recommendation, but notes this is a matter for the non-government organisations.

The Australian Government acknowledges that access to records is of critical importance to those affected by forced adoption practices and that the organisations that hold these records need to make every effort to ensure records are made available, free of charge, to individuals who are seeking them.

With the regard to making these records available through the Find and Connect web resource, it should be noted that the Government's response to recommendation 17 looks to identify the most appropriate mechanism for information sharing for those affected by forced adoption practices. The findings of recommendation 17 and consultation with key stakeholders will inform the final direction of recommendation 18.

To this end, the Australian Government supports the recommendation that former adoption service providers establish projects to identify all records still in their possession, make information available to the information sharing service agreed under recommendation 17, and provide free access to individuals seeking their own records.

## **Recommendation 19**

The committee recommends that the Community and Disability Services Ministers Conference, in consultation with non-government organisations that had responsibility for adoption services and hospitals, agree on and commit to a statement of principles for access to personal information, that would include a commitment to cheaper and easier searches of, and access to, organisational records.

### **Response to recommendation 19**

The Australian Government agrees in principle with this recommendation.

As part of the scoping study that will be undertaken to guide the composition of the specific service response, a Past Adoption Practices consultative forum, led by the Australian Government Department of Families, Housing, Community Services and Indigenous Affairs, will be convened. The study would be undertaken by an independent consultant and would be supported by a national consultation group involving people affected by forced adoption practices, Commonwealth and state and territory government officials, archival experts and existing service providers

This work will be progressed through the Standing Council on Community and Disability Services.

## Recommendation 20

The committee recommends that the Commonwealth commission an exhibition documenting the experiences of those affected by former forced adoption policies and practices.

### Response to recommendation 20

The Australian Government agrees with this recommendation.

The Australian Government is funding National Archives of Australia \$1.5 million over three years to deliver a Forced Adoption Experiences History Project. This will include an exhibition to increase awareness and understanding of experiences of individuals affected by forced adoption practices and a website to identify and share stories of forced adoption experiences.