



GOVERNMENT OF
WESTERN AUSTRALIA

Inquiry into past forced adoptive policies and practices

**Western Australian Government Response to Report 66 – Broken
Bonds, Fractured Lives: Report on the Inquiry into Past Forced
Adoption in Western Australia.**

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Acknowledgement of Country

The Government of Western Australia acknowledges the traditional custodians throughout Western Australia and their continuing connection to the land, waters and community. We pay our respects to all members of Western Australia's Aboriginal communities and their cultures; and to Elders both past and present.

Acknowledgement of the role of the State Government in historic forced adoption

The Government welcomes the findings and recommendations of the Standing Committee on Environment and Public Affairs' (the Committee) Report 66 – Broken Bonds, Fractured Lives: Report on the Inquiry into Past Forced Adoption in Western Australia (Report 66).

The Inquiry into Past Forced Adoption in Western Australia (Inquiry) has been an important opportunity for people impacted by forced adoption to be heard, listened to and to have their personal experiences publicly recorded.

The Government acknowledges the courage of the many mothers, fathers, adopted people and their families who provided submissions and evidence to the Inquiry. Equally, the Government recognises those who were unable to tell their stories through the Inquiry but continue to carry the impacts of forced adoption with them every day.

The Government also recognises the vital support provided by community service organisations in assisting people with lived experience throughout the Inquiry.

The Government expresses deep regret for the historic forced adoption policies and practices that forcibly separated mothers and fathers from their children and inflicted life-long trauma, enduring grief and suffering.

The Government accepts its past involvement in forced adoptions and acknowledges the historic role of the Department of Communities (under its previous names), the Department of Health, and the Department of Justice as the government agencies involved.

The involvement of the Government in forced adoption represents a significant system of failures by authorities and those in power to safeguard the parental rights of mothers and fathers and to prioritise the welfare and best interests of children. The adoption policies and practices at that time were wrong and harmful, and we acknowledge the thousands of lives that have been irrevocably affected.

Whilst the Parliament of Western Australia was the first in Australia to apologise for past forced adoption in 2010, a formal apology is not enough, there remains work to be done. The government will learn from this Inquiry to ensure that the mistakes of the past are not repeated and take action to address the traumatic and long-lasting impacts caused by past practices of forced adoption.

Addressing the issues of forced adoption requires collective and sustained effort across all levels of government. The Government will continue to work in partnership with state, territory and commonwealth governments through the Community Services Ministers State and Territory Forced Adoption Working Group to contribute to the Australian Government's commitment to acknowledging and supporting people with lived experience of forced adoption.

To guide the implementation of the recommendations supported in the Government Response, the Government commits to ensuring that the lived experience of people impacted by forced adoption plays a key role in driving change.

Content warning

The subject of the Inquiry and content contained within this Government Response may be distressing for people who have been impacted by forced adoption. Please contact the support services listed below if needed.

Organisation	Contact
Adoption Research & Counselling Services Inc is an independent, not-for-profit community agency offering professional counselling, support and information to anyone impacted by adoption.	Phone: (08) 9370 4914
Relationships Australia (WA) Forced Adoption Support Service provides a range of specialist trauma-informed support services affected by forced adoption.	Phone: 1300 364 277
Department of Communities Adoption Services can help you with information, support and counselling relating to adoption.	Phone: 1800 182 178
Beyond Blue provides anxiety, depression and suicide prevention support.	Phone: 1300 224 636
Lifeline Australia provides free, 24-hour telephone suicide prevention and mental health support and emotional assistance.	Phone: 13 11 14

The Government acknowledges that using certain language when referring to adoption may continue to negatively affect people who have experienced forced adoption.

While efforts have been made to sensitively use language within this response, there are instances, for the purposes of clarity, where terms such as mother, father, adoptive parent(s) and adopted people/person are used. We recognise that language plays an important role in acknowledging people's experiences.

Background

On 22 February 2023, the Committee commenced the Inquiry. The Inquiry began as a petition containing 318 signatures which was tabled in the Legislative Council on 15 November 2022. In December 2022, then Minister for Child Protection, Women's Interests, Prevention of Family and Domestic Violence and Community Services, Hon Simone McGurk MLA, wrote to the Committee requesting the Committee inquire into historical forced adoptions practices in WA. The Inquiry focused on WA's adoptive policies and practices of the twentieth century, notably the years between 1939 – 1980. Through the Terms of Reference, the Committee sought to:

1. Understand the lived experiences of those affected by historical forced adoption practices.
2. Examine the role of the State Government, health services and private institutions in these practices.
3. Identify what measures are currently available to assist persons experiencing distress, their effectiveness, and how those persons may be supported further.
4. Consider any other matter that arises during the course of the Inquiry deemed to be relevant to the Committee.

Submissions and oral evidence submitted to the Inquiry describe the experiences of mothers, fathers, adopted people and their families separated by forced adoption. For these individuals and their families, the impacts are deeply personal, profound and ongoing.

Many mothers recount being subjected to harsh and abusive conditions, being forcibly restrained during childbirth, provided inadequate medical care, denied their request to see and hold their newborns, pressured or coerced into signing consent forms and given false or misleading information about the exercise of their legal rights.

Unmarried mothers were silenced by the prevailing societal attitudes and patriarchal systems of the time and were provided with limited or no alternative options to adoption. For many of these mothers, adoption of their newborns was not their decision.

Today, mothers relate the enduring stigma and trauma of their experience and an inherent longing to connect and reunite with their now adult children. For many mothers, this profound trauma has impinged upon many aspects of their life, often creating a legacy of intergenerational trauma, which persists despite their resilience.

Many fathers have also been impacted by forced adoption. Submissions detail fathers being prevented from visiting mothers in hospitals or maternity homes and being excluded from any information or decisions relating to the pregnancy, birth or adoption of their child. As a result of this exclusion, many fathers remain unaware of the birth or adoption of their child.

Adopted people too, continue to be adversely impacted by their adoption experience. Adopted people detail struggles with their mental health, identity and sense of belonging, feelings of abandonment and disenfranchised grief, a disconnection from culture and country and the emotional complexities of family finding and reunion.

Many adopted people have a natural desire to understand who they are, where they have come from and why they were adopted. For some adopted people, this strong desire for connection remains unfulfilled. Submissions from Aboriginal people referred to additional suffering from the loss of language, culturally identity and cultural connection.

Committee recommendations

On 22 August 2024 the Committee tabled Report 66, which made a total of 72 findings and 39 recommendations to address the longstanding impacts of forced adoption in WA. Of these recommendations, a total of 36 are directed to the State Government for consideration and three recommendations are directed to institutions and organisations with historic involvement in forced adoption.

Broadly, these recommendations propose reforms to legislation, policy, practice and the delivery of services for individuals and their families impacted by forced adoption. The Government has considered all findings and recommendations of Report 66 in detail and the Government Response is outlined below.

Western Australian Government Response

The Government Response is an acknowledgement of the wrongs of the past and a formal commitment to meaningful action to support mothers, fathers, adopted people and their families now and into the future.

Of the 36 recommendations directed to the Government for consideration, the Government commits to supporting or supporting in-principle 19 recommendations, deems that 14 recommendations require further consideration, and does not support three recommendations.

Implementation of these recommendations will require collaboration and sustained effort across government. The Government Response has been developed in consultation between the departments of Communities, Justice, Health and the Mental Health Commission, and informed by people's lived experience.

The Government is deeply committed to working through the implementation of recommendations in consultation with people with lived experience, the local adoption sector and relevant organisations and institutions.

Recommendation 1: Ngala commit to participating in a redress scheme in recognition of their involvement in past forced adoption.

Government response: Noted

The Government notes this recommendation is directed to Ngala for consideration.

Recommendation 2: The Salvation Army commit to participating in a redress scheme in recognition of their involvement in past forced adoption in WA.

Government response: Noted

The Government notes this recommendation is directed to the Salvation Army for consideration.

Recommendation 3: Institute of Sisters of Mercy Australia and Papua New Guinea commit to participating in a redress scheme in recognition of their involvement in past forced adoption in WA.

Government response: Noted

The Government notes this recommendation is directed to the Institute of Sisters of Mercy Australia and Papua New Guinea for consideration.

Recommendation 4: The WA Government consult with support service providers and people affected by forced adoption to:

- improve the quality and dissemination of information on available mental health supports**
- devise better internal procedures for interacting with forced adoption clients, and for connecting people to relevant supports and following-up**
- increase referrals to external support services.**

Government response: Supported

The Government acknowledges that consultation with existing service providers and people with lived experience will improve the quality and availability of information, improvements to internal procedures and referrals to support services.

Consultation on the implementation of this recommendation will be progressed through the establishment of the WA Forced Adoption Reference Group, detailed further below arising from recommendation 39.

Recommendation 5: The Minister for Health and Mental Health consult with people impacted by forced adoption in WA and professional representative bodies to commission informed development of:

- 1) criteria for establishing a mental health practitioner as a specialist in treating trauma in the forced adoption space**
- 2) a public register of WA professionals who meet these criteria and their contact details**
- 3) a means for inviting relevant WA professionals to register**
- 4) a system for assessing applications**
- 5) a system for maintaining, updating, and advertising the register**
- 6) a strategy to quickly grow the number of professionals eligible for the register**
- 7) a plan for periodic review and revision of this arrangement, including through consulting with people with lived experience of forced adoption.**

Government response: Supported in-principle

This recommendation is supported in-principle, and it is noted that the establishment of a register of health practitioners to work in the field of forced adoption is dependent on the development and establishment of Recommendations 6 and 8.

The Department of Health will undertake an interjurisdictional scan to understand and inform the evidence base of trauma informed capabilities needed for a mental health practitioner to practice in the field of forced adoption and will investigate a mechanism to host a register for WA health professionals that meet these requirements.

Consultation on the implementation of this recommendation will be progressed through the establishment of the WA Forced Adoption Reference Group and engagement with relevant stakeholders.

Recommendation 6: The Minister for Health and Mental Health:

- 1) consult with relevant stakeholders to develop and implement a strategy for promoting the Australian Psychological Society’s forced adoption training package for psychologists and general practitioners within WA**
- 2) connect WA health professionals to their network counterparts working in this space.**

Government response: Supported

The Department of Health and the Mental Health Commission will work collaboratively to develop a promotion strategy for the Australian Psychological Society’s forced adoption training package for psychologists and general practitioners in WA.

The Department of Health will engage with the Australian Psychological Society to hold a series of online webinars relevant to the e-learning modules and to create broader engagement and networking opportunities with the health and allied health services beyond those individuals who complete the online training.

Recommendation 7: The Minister for Community Services tie future funding for forced adoption counselling services to:

- 1) qualified practitioners completing training and development relating to forced-adoption**
- 2) the provision of evidence-based approaches to treating complex trauma**
- 3) ongoing clinical supervision from qualified professionals specialised in trauma.**

Government response: Supported

This recommendation will be implemented by Communities.

Recommendation 8: The Minister for Health and Mental Health commence a dialogue with those with lived experience of forced adoption, service providers and the university sector to:

1) establish a post-graduate qualification in treating forced-adoption traumas

2) establish research projects into relevant topics, such as health and mental health impacts, data collection and data linkage

3) incentivise study and research in this area through the provision of scholarships.

Government response: Supported in-principle

The Department of Health will collaborate with the Mental Health Commission and consult with people with lived experience of forced adoption, service providers and the university sector to scope the establishment of a post-graduate qualification in treating forced adoption traumas, support the establishment of research projects into relevant topics, data collections and data linkage.

Consultation on the implementation of this recommendation will be progressed through the establishment of the WA Forced Adoption Reference Group and engagement with relevant stakeholders.

Recommendation 9: The WA Government develop an accessible online resource that is clear, comprehensive, and up to date providing advice identifying the existing collections of records relevant to forced adoption, where they are held and how the records can be accessed.

Government response: Supported

The Government recognises that for people with experience of forced adoption, locating and accessing records about their personal history, or that of their family, is critical to making sense of their adoption.

Communities holds a large volume of historic adoption records, including those from organisations and institutions with historic involvement in forced adoption. The quality of these records varies and includes original physical records, digitised copies and microfilm formats.

Communities will improve information and public awareness of the existing collections of records relating to historic adoption, including the location of records, how to access the records and available services to assist people to understand their records.

Recommendation 10: The WA Government give urgent consideration to the introduction of legislation in the next Parliament that incorporates the following features:

- 1) A separate act dealing with access to information and records relating to adoption.**
- 2) Applications to access information and records under the scheme be managed by a standalone unit responsible for managing adoption information within the Department of Justice.**
- 3) A clear object under the Act to ensure those affected by adoption have access to information about themselves and their lives, including their early care and their medical needs.**
- 4) Records currently held by the Department of Communities relating to forced adoptions be transferred to the unit dealing with applications under the scheme.**
- 5) Records currently held by entities or institutions which previously provided adoption services be provided to the unit dealing with applications under the scheme.**
- 6) Records from the Department of Communities be reviewed, catalogued, and digitised as a matter of urgency.**
- 7) Applications under the scheme provide for access to information and records about the adoption itself, and also about the early life of an adopted person. This includes medical records.**
- 8) Applications provide for access to medical information relevant to the health of an adopted person or their descendants.**
- 9) Redaction only be used to the minimum extent necessary.**
- 10) Summaries or extracts not be provided to applicants.**

11) Applicants be provided with a list or index of records that exist, and information as to what has been provided, what has not, and the reasons for this.

12) There be clear and legislated pathways for internal and external review of decisions made regarding access.

13) The new scheme include a provision equivalent to section 83 of the *Adoption Act 1994 (WA)*. Where there is an existing court order under section 83 of the *Adoption Act 1994 (WA)*, that order be converted to apply to the new scheme.

Government response: Further Consideration

The Government supports in-principle the following aspects of recommendation 10:

- 3) A clear object under the Act to ensure those affected by adoption have access to information about themselves and their lives, including their early care and their medical needs.
- 5) Records currently held by entities or institutions which previously provided adoption services be provided to the unit dealing with applications under the scheme.
- 6) Records from the Department of Communities be reviewed, catalogued, and digitised as a matter of urgency.
- 7) Applications under the scheme provide for access to information and records about the adoption itself, and also about the early life of an adopted person. This includes medical records.
- 8) Applications provide for access to medical information relevant to the health of an adopted person or their descendants.
- 9) Redaction only be used to the minimum extent necessary.
- 10) Summaries or extracts not be provided to applicants.
- 11) Applicants be provided with a list or index of records that exist, and information as to what has been provided, what has not, and the reasons for this.
- 12) There be clear and legislated pathways for internal and external review of decisions made regarding access.

The Government notes aspect 13 of the recommendation, as this provision is already provided for in the *Adoption Act 1994*.

Communities will commence development and implementation of a comprehensive program of business improvements to Adoption Services to prioritise aspects 3, 6, 7, 8, 9, 10, 11 and 12 of this recommendation.

Further time is required to consideration recommendation 1,2,4 and 5.

Recommendation 11: The WA Government urgently implement integrated birth certificates, to be issued to eligible people upon request, and that they be legal proof of identity of equal status to other birth certificates.

Government response: Supported

Birth certificates are core documents that contribute to an individual's sense of identity, family history and personal sense of belonging. Currently in WA, an adopted person's birth record is updated with the adoptive parents taking the place of the parents at birth, as the legal parents. This process produces a legal birth certificate that does not include information about an adopted person's parents at birth, biological origins or history prior to the adoption.

Integrated Birth Certificates are consistent with a modern approach to open adoption and will support an adopted person's right to formally recognise their parents at birth, and their parents after the adoption.

Adopted people will have choice over how and when they chose to use their Integrated Birth Certificate as an official identity document. Adopted people will be able to use either their Integrated Birth Certificate or their post-adoptive birth certificate to establish legal identity.

Recommendation 12: The Attorney General liaise with the Registry of Births Deaths and Marriages to implement a specific process for the names of fathers to be added to the birth certificates of children who were subsequently adopted and for whom fathers' identities were not originally recorded. This process should be responsive to the needs of people affected by forced adoption, including in the following ways:

- not assume fathers will be alive, located within Australia, literate, or without other

impediments to providing sworn evidence in writing

- not assume applicants will have support from or any relationship with the father, or other family members

- not assume fathers will be listed on other documents relating to the adoption of the child

- any application fees be waived

- the cost for any DNA test required not be borne by the applicant.

Government response: Further consideration required

Section 19 of the Births, Deaths and Marriages Act 1998, currently facilitates a process through the Registry of Births, Deaths and Marriages WA to amend the birth registration information of an adopted person to include information regarding biological paternity following acceptance of DNA evidence from organisations accredited by the National Association of Testing Authorities.

Further government consideration of this recommendation is required due to complexities relating to confirming parentage in the absence of available records, in circumstances where the father is deceased, or the family of the father are not aware of or do not support an application.

Recommendation 13: The WA Government implement integrated death certificates, to be issued to eligible people upon request, and that they have equal legal status to other death certificates.

Government response: Further consideration required

The Government anticipates that significant policy development will be required to scope consideration of this recommendation, noting that integrated death certificates are not currently implemented by any Australian jurisdiction. Further consideration of integrated death certificates will take into consideration the legislative, policy and practice learnings from the introduction of Integrated Birth Certificates.

Recommendation 14: The Minister for Community Services direct the Department of Communities to consult with relevant adoption search, contact and genealogy service providers to devise and action steps for improving access to records necessary to identify key family.

Government response: Supported

Communities will undertake consultation with relevant stakeholders and service providers to develop a plan for improving access to records necessary to identify family.

Recommendation 15: The WA Government introduce an amendment bill repealing provisions relating to contact and mediation licenses in the *Adoption Act 1994 (WA)*.

Government response: Supported

A licensed mediator is an experienced professional working directly with people impacted by forced adoption to provide a supported-release of adoption information and records and to facilitate contact with family members.

The *Adoption Act 1994* provides for contact and mediation licenses to be issued to authorised individuals to support parties to an adoption to locate their families, ensure that an individual who could act on behalf of an adopted person was authorised, had the appropriate skills to do so and could offer supports to the parties, particularly where, for some people, contact was unexpected and distressing.

The Statutory Review of the *Adoption Act 1994* found that these provisions relating to contact and mediation licenses were unnecessarily restrictive of a person's right to information and that the legislation has not kept pace with the principles of modern adoption and new technologies that provide individuals and their families with alternative avenues for contact and reunification.

Recommendation 16: The Minister for Community Services direct the Department of Communities to review their internal practice on search and contact to ensure that people affected by past forced adoption receive clear and simple information, orally as well as in writing, about all relevant matters, including:

- what supports exist and why using them may be beneficial
- what support services are provided by the relevant authority
- the roles of public servants who provide which support services and the qualifications relevant to those roles
- who is eligible and ineligible for support services provided by the relevant authority and on what bases
- what support services are provided externally
- how to access those external services

- whether those external services are free or charge fees.

Government response: Supported

Ensuring that people receive relevant and accurate information about their adoption is a priority for Communities' Adoption Services. This includes the provision of information about the function and role of Adoption Services in providing records and information, search, mediation and outreach services, and relevant information and referrals to available counselling and support services.

Updates to Communities internal practice guidance will consider the unique circumstances of mothers, fathers, adopted people and their families, with recognition that information about support services should be provided in a manner that is easy to understand, must be accessible in a variety of formats to reflect considerations such as age, varying levels of digital proficiency, disability, cultural considerations and the use of language to avoid re-traumatisation.

Recommendation 17: The WA Government consult with lived experience stakeholders and identified support service providers to develop and implement a plan for services to meet the needs of people impacted by forced adoption in WA in relation to:

- mental health support**
- access to adoption records and information**
- search, contact, genealogy and mediation services.**

Government response: Supported

The Government acknowledges that consultation with existing service providers and involving people with lived experience in the design and implementation of services for them will ensure that services better meet their needs.

Consultation on the implementation of recommendation 17 will be progressed through the establishment of the WA Forced Adoption Reference Group.

Recommendation 18: The WA Government make arrangements to ensure that the services of:

- access to adoption records and information, and
- search, contact, genealogy and mediation services

are provided by a standalone unit that is not within the Department of Communities.

Government response: Further consideration required

Significant professional training and subject matter expertise in forced adoption at local and national levels is required to effectively provide services including access to adoption records and information, search, contact, genealogy and mediation services. It requires an extensive knowledge and understanding of legislative and policy frameworks, and an ability to provide services in a way that is sensitive, respectful and responsive.

Communities' Adoption Services staff currently receive tailored training and education, and hold relevant professional qualifications, and subject matter expertise to provide effective post-adoption services. In considering this recommendation, Government will also identify opportunities to improve and strengthen the delivery of Communities' Adoption Services through the implementation of recommendations 14 and 17.

Recommendation 19: The WA Government consult with lived experience stakeholders to develop and implement a strategy for raising public awareness of forced adoption, including staff training, the gathering of health-related information, online information, and the development of any other relevant resources.

Government response: Supported

The Government supports recommendation 19 to improve education and public awareness of the history and ongoing impacts of forced adoption in WA. The Government recognises that through education and awareness, we can learn from the harms of the past to ensure history is never repeated and support the healing and recognition of people with lived experience. Through the establishment of the WA Forced Adoption Reference Group, Communities will consult with people with lived experience to develop a strategy for improving education and raising public awareness of forced adoption.

Recommendation 20: The WA Government establish a redress scheme for those directly affected by past forced adoption in WA, comprised of:

- a monetary payment
- counselling and psychological support
- a direct personal apology from involved institutions and organisations.

The following principles guide the scheme:

- the eligibility criteria include mothers whose babies were forcibly removed, children forcibly removed from their mothers, and in some circumstances fathers of children forcibly removed
- the evidentiary threshold be 'reasonable likelihood' that the child was forcibly separated from its mother or parents
- the process streamlined and applicants given choice between the scheme's components
- fixed sum payments through the scheme that does not discriminate between the specific circumstances of different applicants or the eligibility classes
- lifelong individual and family counselling by therapist of choice
- applicants not precluded from accessing the scheme if they have made a civil claim
- the scheme be administered by a standalone unit not within the Department of Communities.

Government response: Further consideration required

The Government acknowledges that for many people who have experienced a forced adoption, redress signifies an important step in the formal recognition of their experience, to hold responsible institutions to account, and to support healing.

The Government requires further time to consider Recommendation 20. The development of a scheme will be subject to further government consideration.

Recommendation 21: The Attorney General liaise with those institutions and organisations involved in past forced adoption, and secure their commitment to a redress scheme including:

- **partial reimbursement for redress payments and/or counselling provided to recipients**
- **participation in an apology process.**

Government response: Further consideration required

The Government recognises the importance to people with lived experience of forced adoption to receive formal acknowledgement from institutions and organisations of the harm and trauma caused by historic forced adoption policies and practices.

Implementation of this recommendation will be progressed in conjunction with Recommendation 20 and further consideration is required, noting that a number of the Non-Government Institutions are currently defunct.

Recommendation 22: The WA Government establish and fund a legal advice and referral service for ensuring those affected by forced adoption are able to receive free, independent legal advice about their options for accessing a redress scheme.

Government response: Further consideration required

Implementation of this recommendation will be progressed in conjunction with Recommendation 20 and will be subject to further government consideration.

Recommendation 23: The Attorney General introduce legislation similar to the Civil Liability Amendment (Child Sexual Abuse Actions) Act 2018 (WA) amending the Civil Liability Act 2002 (WA) and the Limitation Act 2004 (WA) to remove limitations on claims relating to forced adoption.

Government response: Further consideration required

The Government recognises that historic adoption policies and practices have resulted in longstanding injustices for mothers, fathers, adopted people and their families.

Consideration of this recommendation requires significant policy work and consultation noting that no other jurisdiction has lifted the statute of limitations in relation to forced adoption claims.

The Government will consider reforms to statutory limitation periods in conjunction with a broader package of legislative reforms, including consideration of the outcomes of the Victorian approach to reforming statutory limitation periods for historic forced adoption.

Recommendation 24: The Minister for Community Services direct the Department of Communities to contact individuals who entered into an undertaking about contact vetoes prior to the *Adoption Act 1994* 2012 decriminalisation amendments and provide updated information.

Government response: Supported

The 2012 amendments to the *Adoption Act 1994* removed the offence relating to the breach of a contact veto in the spirit of decriminalising contact between parties to an adoption. The offence under section 126 of the *Adoption Act 1994* of harassment, intimidation, embarrassment or ridicule of a person by reason of that person being a party or relative of a party to an adoption remains.

Communities will undertake activities to identify all parties who entered into an undertaking about contact vetoes prior to the 2012 removal of the related offence, to provide them with updated information relating to the decriminalisation amendments. Communities will ensure communication with affected parties will prioritise trauma-informed approaches and sensitivities to a person's individual circumstances.

Information regarding the 2012 decriminalising amendments relating to contact vetoes will be made available on the Adoption in WA webpage of the wa.gov.au website to increase public education and awareness.

Recommendation 25: The WA Government introduce an amendment bill repealing section 108 of the *Adoption Act 1994*.

Government response: Supported

Section 108 of the *Adoption Act 1994* requires a contact and mediation licensee to contact Communities prior to contacting a party to an adoption to ascertain whether there is a contact veto registered in relation to the person to licensee is proposing to contact.

Based on Government support of recommendation 15 to repeal contact and mediation licenses, the Government supports recommendation 25 to repeal section 108 of the *Adoption Act 1994*.

Communities will provide information on the Adoption in WA webpage on the wa.gov.au website that encourages parties to an adoption who are seeking to contact one another, to contact Communities' Adoption Services prior to initiating contact. Adoption Services can

then offer assistance or provide a referral for counselling and support, or advise of other information that may be important to initiating contact.

Recommendation 26: The WA Government introduce an amendment bill to:

- repeal section 103 and 82(4)(c) of the *Adoption Act 1994*
- amend section 82(4)(b) by deleting “83(2); and” and inserting instead - “83(2).”
- amend section 100(3) to remove the reference to section 103.

Government response: Further consideration required

The Government will consider this recommendation in line with all of the recommendations relating to contact vetoes.

The Government recognises the diversity of opinions and perspectives about the continuation of contact vetoes in WA.

Recommendation 27: The WA Government introduce a bill amending the *Adoption Act 1994* to convert existing contact vetoes into ‘Statements of objection to contact’ and place on a register.

Government response: Further consideration required

The Government will consider this recommendation in line with all of the recommendations relating to contact vetoes.

The Government recognises the diversity of opinions and perspectives about the continuation of contact vetoes in WA. Some parties cite contact vetoes as a barrier to connecting and reuniting with family, whereas others who have lodged a contact veto express concerns about their removal. There is no uniform approach to contact vetoes across Australia. In recognition of the sensitivities of this issue, the Government believes targeted consultation with people with lived experience is required in relation to this recommendation.

Recommendation 28: The Attorney General introduce a bill repealing section 100 of the *Adoption Act 1994* and providing for contact vetoes to no longer have an effect after 12 months of the amendments coming into operation.

Government response: Further consideration required

The Government will consider this recommendation in line with all of the recommendations relating to contact vetoes.

The Government recognises the diversity of opinions and perspectives about the continuation of contact vetoes in WA. As the department assisting the Minister for Child Protection in the administration of the *Adoption Act 1994*, recommendation 28 will be considered by Communities.

Recommendation 29: Prior to the date for contact vetoes ceasing to have an effect, the Department of Communities (Post-Adoption Services) is to contact every individual who holds a contact veto under the *Adoption Act 1994* and is to provide them with information regarding the amendments and details for services available to provide them with counselling and support.

Government response: Further consideration required

The Government will consider this recommendation in line with all of the recommendations in relation to contact vetoes.

The Government recognises the diversity of opinions and perspectives about the continuation of contact vetoes in WA.

Recommendation 30: The Attorney General introduce amendments to relevant legislation to ensure that civil litigation on matters of past forced adoption (including those brought under any legislative changes resulting from Recommendation 23) can continue by the estate of the plaintiff.

Government response: Further consideration required

The Government recognises that historic adoption policies and practices have resulted in longstanding injustices for mothers, fathers, adopted people and their families.

The Government will consider this recommendation in conjunction with recommendation 23.

Recommendation 31: The Attorney General direct the Department of Justice to provide clear and current information about discharging an adoption and the forms required. This information be included on the Family Court of Western Australia website.

Government response: Supported

Discharge of an adoption order means the undoing or removal of the legal effect of an adoption order and that the adoption ceases to exist. The person is no longer considered an adopted person or legally connected to the family that adopted them and becomes legally reconnected to their family at birth.

Very few adoption orders are discharged in WA, (less than one each year) with 17 orders having been discharged since 1995. Legislative provisions enabling the discharge of an adoption order remain an important avenue for adopted people to have agency over their identity. Applications to the Family Court of WA seeking a discharge of an adoption are free.

The Government is committed to ensuring people have access to clear, accurate and simplified information to support this undertaking and are aware of available counselling, support and legal services to support their application.

The Department of Justice will review existing forms and public information on the Family Court of WA website about discharging an adoption, to ensure this information is accessible, easy to navigate and provides transparency about legal processes. Communities will also ensure this information is available on the Adoption in WA webpage on the wa.gov.au website to increase public awareness.

Recommendation 32: The Attorney General introduce a bill amending section 124 of the *Adoption Act 1994* removing relatives under (1)(e) from the classes of persons whose identities are protected by that offence.

Government response: Further consideration required

The Government will consider this recommendation as part of future reforms to the Adoption Act 1994. As the department assisting the Minister for Child Protection in the administration of the *Adoption Act 1994*, recommendation 32 will be considered by Communities.

Recommendation 33: The Attorney General introduce a bill repealing section 126 of the *Adoption Act 1994*.

Government response: Not supported

Section 126 of the *Adoption Act 1994* provides protection to a party to an adoption or a proposed adoption, or a relative of a party to an adoption or proposed adoption, against harassment, intimidation, embarrassment or ridicule from another person by reason of the adoption or proposed adoption. Section 126 applies to all historic and modern adoptions.

Section 126 provides important protection to parties to an adoption or proposed adoption who, by their own choosing, do not wish to have contact. It also safeguards children and young people from exposure to acts that could cause harm to their physical or psychological safety and wellbeing and therefore the Government does not support recommendation 33. As the department assisting the Minister for Child Protection in the administration of the *Adoption Act 1994*, recommendation 33 was considered by Communities.

Recommendation 34: The Attorney General introduce a bill repealing section 127 of the *Adoption Act 1994*.

Government response: Not supported

Section 127 of the *Adoption Act 1994* relates to the privacy and confidentiality of parties to an adoption or proposed adoption. It applies to all historic and modern adoptions and reflects confidentiality provisions in the adoption legislation of all other Australian jurisdictions. Similar provisions are found in other human services legislation.

Subject to a number of exceptions, section 127 restricts a person from recording, using, disclosing or communicating information contained in any document held by the Minister, Communities and certain others relating to an adoption or proposed adoption, an adoption services, the parties to an adoption or proposed adoption, an adoption plan in relation to an adopted person or prospective adopted person, or mediation between the parties to an adoption or proposed adoption, or the discharge of an adoption order.

Repeal of section 127 would create a significant risk to an individual's right to confidentiality and privacy, particularly in circumstances where a party to an adoption or proposed adoption does not wish to be publicly named or contacted. Repeal of section 127 poses particular risk to the safeguarding of confidentiality of children and young people who are a party to a modern adoption and therefore the Government does not support recommendation 34. As the department assisting the Minister for Child Protection in the administration of the *Adoption Act 1994*, recommendation 34 was considered by Communities.

Recommendation 35: The Minister for Community Services direct the Chief Executive Officer of the Department of Communities to clarify the circumstances in which the Chief Executive Officer will and will not provide notification under section 80(1) or 80(2) of the *Adoption Act 1994*. This include clarification that a lack of awareness by a party they are adopted, or have a relative who has been adopted does not constitute ‘special circumstances’ for the purposes of section 80(3) of the *Adoption Act 1994*.

Government response: Supported

Under section 80 of the *Adoption Act 1994*, if the Chief Executive Officer (CEO) of Communities receives information that one of the parties to an adoption or a sibling of the adopted person has died, the CEO is to inform the other parties to the adoption, or the adopted person’s siblings, of the death so far as the CEO considers that it is reasonable and practicable to do so. Under section 80(3), the CEO does not have to inform a person of a death in special circumstances. The *Adoption Act 1994* does not provide a definition of special circumstances.

The Communities’ Special Circumstance Policy aims to assist Adoption Services in considering matters that constitute special circumstances, where a decision to not notify a party to an adoption about a death is being considered.

Communities will review and publish its Special Circumstances Policy on the Adoptions in WA webpage on the wa.gov.au website.

Recommendation 36: The WA Government notify all adult adopted persons not already aware of their adopted status.

Government response: Not supported

Communities will improve publicly available information on the process for adopted adults to who seek to confirm if they are adopted and access to adoption information and records as per Recommendation 37.

Communities will continue to prioritise applications for adoption information services for individuals who discover their adoption in adulthood and will provide them with relevant information and referrals to available counselling and support services.

The Government acknowledges that an individual’s discovery of their adoption in adulthood can cause significant psychological distress, including feelings of disbelief, confusion, anger, grief and identity loss. For many adopted adults, discovery of their adoption is life-changing.

During the period of closed adoption in WA, some adoptive parents chose not to tell their child that they were adopted. Unfortunately, for many adopted adults, the discovery or disclosure of their adoption occurs in adulthood following the death of their adoptive parents, accidental or unexpected disclosure by a relative or discovery of concealed adoption records.

The social and legislative shift away from closed adoptions in WA has coincided with a growing community awareness of an adopted person's right to know their full personal history, including their adoption. It is now recognised that the secrecy surrounding historic adoption practices is harmful to the adopted person and their family.

The *Adoption Act 1994* established the concept of open adoption which promotes contact and connection between the parties to adoption where this is possible and appropriate. The Government strongly advocates for adopted people to be informed of their adoption at an early age and in a way that is appropriate and sensitive to the needs of each individual.

The Government does not support the recommendation to inform all adopted adults of their adoption history due to the potential to cause significant psychological harm and distress to individuals.

Recommendation 37: The Minister for Community Services direct the Department of Communities (Post-adoption services) to implement a process for adults to apply for confirmation they are recorded as a party in any adoption in Western Australia.

Government response: Supported

Communities has a statutory responsibility under the *Adoption Act 1994* to support access to adoption records and information to eligible parties. The type of adoption records and information that can be obtained is prescribed in the *Adoption Act 1994*, and depends on who is applying for the records and information, the age of the adopted person, and when the adoption order was made. The records and information available to the applicant also depend on whether the information and records still exist.

Currently, information about an adoption that took place in WA can be accessed by eligible persons as defined in the *Adoption Act 1994*, for identifying and/or non-identifying information about an adoption. A request to access information about an adoption can be made by mothers, fathers, adopted people, adoptive parents, biological relatives and descendants following the completion of an Application for Post Adoption Services to Communities.

Following receipt of an application, Communities works closely with the applicant through a supportive and trauma-informed approach to confirm if they are recorded as a party to

an adoption in WA. This process includes early identification of referrals to specialist counselling and support services for the applicant.

The Government supports recommendation 37, noting that a system is already in place to support adults to apply to Communities for confirmation that they are recorded as a party to an adoption in WA.

To improve public awareness of this process, Communities will update information on the Adoption in WA webpage of the wa.gov.au website to clarify the process for adults to confirm they are recorded as a party to an adoption. Information will include clarification of the application process, timeframes for Communities to process applications, information on the types of records and information available to eligible parties, and information on available counselling and support services.

Recommendation 38: The Minister for Community Services direct the Department of Communities to publish accurate online information about the numbers and kinds of adoptions occurring in the state each year, legislation relevant to adoption, the status of reviews of that legislation and progress on implementing review changes.

Government response: Supported

Communities provides annual reporting to the Australian Institute of Health and Welfare (AIHW) on the numbers and types of adoption in WA, including both local and intercountry adoptions. This information is publicly available through the annual publication of the AIHW Adoptions Australia report. Communities also provides information about adoptions in WA through the annual Child Protection Activity Performance Information, which is available on the wa.gov.au website.

The Government supports this recommendation to improve public knowledge and awareness of adoptions in WA.

As a priority, the Communities will publish annual data on the numbers and types of adoptions, information about the *Adoption Act 1994* and Adoption Regulations 1995, the status of reviews and amendments to adoption legislation and progress on the implementation of reviews and amendments. This information will be published annually on the Adoption in WA webpage on the wa.gov.au website.

Recommendation 39: The WA Government establish an adoption reference group inclusive of mothers, fathers, adopted people, and First Nations people with lived experience of forced adoption, as well as relevant service providers when appropriate.

Government response: Supported

It is crucial that people with lived experience of forced adoption policies and practices have a say on the legislation, policies, practices and services that impact them. People with lived experience play a central role in shaping change. The Government supports recommendation 39 to establish an adoption reference group.

As an immediate priority, Communities will establish the Forced Adoption Reference Group (the Reference Group) with membership to include mothers, fathers, adopted people, adoptive parents, local peer support groups, and community sector organisations with professional expertise in forced adoption. Reference Group members will have an important role in contributing to the future of adoption reform in WA through consultation on the implementation of recommendations 4, 5, 8, 17 and 19 at a minimum.

Additional information

Modern adoption policy and practice

Under the *Adoption Act 1994*, the Chief Executive Officer (CEO) of the Department of Communities (Communities) has a statutory responsibility to provide adoption services in WA. In contrast to historic adoption practices, modern adoption is grounded in the principles of 'open adoption', where the main parties to an adoption are aware of each other's identity and the adopted person remains connected to family and cultural origins. Decisions about adoption are made with the welfare and best interests of a child who is an adopted person or a prospective adopted person as a paramount consideration.

To legally participate in an adoption in WA, parties must provide effective consent, meaning that consent is given freely after the person has received oral and written information and counselling if requested. Consent must be provided without material inducement and cannot be obtained by fraud or under duress. Parents can revoke their consent to an adoption up to 28 days after signing the consent document.

This contemporary approach reflects an ongoing awareness that adoption is complex, that the impacts are lifelong, and that people have varying views about adoption which can change over time. Modern adoption is grounded in a robust legislative, policy and practice framework to ensure that adoption only occurs in circumstances where there is no other appropriate alternative.

While the number of locally born children requiring adoptive families in WA is small (five children per year on average), adoption remains an avenue to ensure every child has the fundamental right to a family. Modern adoption is not about finding children for families, rather it is about finding children a family, inclusive of their biological family to the fullest extent possible.