



Briefing Note

Minister for Child Protection

Department Ref: 2023/96141

Subject: Forced Adoption Inquiry and Adoption Record Access

The purpose of this briefing note is to provide a response to questions relating to accessing adoption records, following a meeting between yourself and adoptions advocates.

Background

- On 22 February 2023, the Standing Committee on Environment and Public Affairs (the Committee) announced the commencement of a Parliamentary Inquiry into Past Forced Adoptive Policies and Practices in Western Australia (the Inquiry).
- You recently met with forced adoption advocates and, following this meeting, requested consideration of the following questions:
 - What is the process for people requesting access to their adoption records?
 - How do people apply? What type of contact is made with Communities and who manages this?
 - What is the timeframe for obtaining records? If there are delays, what is the reason for them and how are they being managed?
 - What are the barriers to accessing the records?
 - Is there a possibility of the Department informing those people who contact Adoptive Services about their records/post-adoption support, about the current Parliamentary Inquiry?
 - If the Dept is formally responding to an applicant, is it possible to make them aware of the Inquiry?
 - If the Dept is verbally corresponding with someone, is it possible to tell a person about the Inquiry?

Current situation

What is the process for people requesting access to their adoption records?

- Individuals may request access to adoptions records verbally or in writing.
- Adoptions Services within the Department of Communities is contactable via 1800 182 178 and a central email mailbox Adoptions@communities.wa.gov.au.
- On receiving an application to access records, an Information Research Officer from the Adoptions team undertakes initial research, including recalling physical files from the storage and information management service. A Senior Information and Research Officer oversees this process.
- Every individual requesting access to adoptions records is required to fill out a Form 303 (**Attachment 1**). This form confirms an individual's identity and the nature of their request.
- Upon receipt of this form, Information Research Officers and the Senior Information Research Officer complete the research, which includes a draft letter to the applicant.
- The team leader determines whether the information will be sent to the applicant, or if a child protection worker should support the applicant in receiving the information.
- The current wait time for a standard request is 8-10 months.

- Wait times can increase for a range of reasons, including the need to await the outcome of coroner's inquiries, awaiting confirmation of birth, death, or marriage details (from either Western Australia or interstate Birth Deaths and Marriages), or confirmation of adoption details from the Family Court of WA.
- Adoptions Services is currently progressing recruitment for three temporary positions, and it is envisaged that increased staffing may reduce excessive wait times.
- Additionally, Adoption Services is currently reviewing the processes associated with access to adoption records to identify business improvements.
- To expedite excessive wait times, Communities can prioritise applications based on the applicant meeting one or more of the following criteria:
 - An urgent medical issue (involving a hereditary issue, life threatening or terminal illness)
 - Age grounds (applicant is 70 years or older)
 - Applicant is an adoptee who may have multiple siblings (some or all of whom may have been adopted)
 - Late discoverer adoptee
 - Applicant has some form of impairment (physical or mental)
 - Applicant is someone who Communities recently advised of the death of a party to the adoption (usually a birth parent or sibling who has been advised of the death of the adoptee)
 - Legal issue (usually involving resolution of a deceased estate).
- There are generally no barriers to accessing records when a person is eligible and documents are available (i.e. they have not been destroyed and the information was recorded).
- From a legal perspective, in accordance with the Adoption Act 1994:
 - only specified persons have a "right" of access to records of Court proceedings in relation to an adoption (s.84) and birth registration information (s.85). This is identifying information. These "rights" of access can be extended to a broader range of relatives/descendants of a party to an adoption where that party is deceased (s.89) or where an adoptee who is over 18 cannot be found (s.90).
 - A broader range of specified persons have a "right" to access non-identifying information about parties to an adoption (where that information is in the custody, power or control of the Department (s.88).
 - These "rights" of access are subject to:
 - the applicant providing proof of identity and being granted authority to access the information by the CEO (presumably delegated to Adoption Services to give this authority) (s.82).
 - potential Family Court order preventing the CEO giving authority for a person to access information where another party to the adoption has satisfied the Court that the access would place that person/their family "at serious risk" (s.83). It is noted this is a very rare occurrence.
- Possible barriers to accessing adoption records may arise in the case of historic adoptions that were not arranged by Communities. In this instance, publications such as 'ROADS. An index of locations and access to adoption records' (2005) may assist with the identification of records.
- Adoption Services is currently reviewing how the information is provided to applicants.

Is there a possibility of Communities informing people (who contact Adoption Services about their records/post-adoption support), about the current Parliamentary Inquiry?

- The reasons for requesting access to adoption records are varied and can include:
 - requesting access to an original birth certificate with adoption details
 - requesting access to adoption court documents

- requesting access to non-identifying information, and
- requesting access information on the implementation of an adoption plan.
- There may be occasions where an individual contacts Adoptions Services because they may suspect they have been adopted, however, this has not been confirmed.
- Given the sensitivities in this area, it would not be appropriate to raise the Inquiry with every person who requests access to adoption records.
- The relevant staff within Adoptions Services have been provided with information on the Inquiry and when appropriate this information will be conveyed to individuals requesting access to adoption records.
- Communities is progressing arrangements for links to the Inquiry to be placed on both the Communities' and the adoptions webpages.
- A summary of the information prepared above with regards to access to records is prepared at **Attachment 2**.

Recommendation/Action

That you note the information provided in this briefing note.

Noted / Further discussion



Chad Stewart
**Acting Assistant Director General
 Strategy and Partnerships**

17 / 03 / 2023

HON SABINE WINTON MLA
**MINISTER FOR EARLY CHILDHOOD EDUCATION;
 CHILD PROTECTION; PREVENTION OF FAMILY
 AND DOMESTIC VIOLENCE; COMMUNITY
 SERVICES**

/ / 2023

Dept Ref:2023/96141

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Drafting Officer: Rachel Davey, Principal Policy Officer, Strategy and Partnerships



Department of Communities

APPLICATION FOR POST ADOPTION SERVICES

Form 303
08/21

ID	REG

ADOPTION ACT 1994 (WA)

Please complete as many sections as you can, give full names, print clearly and tick appropriate boxes

APPLICANT/S PERSONAL DETAILS					
APPLICANT 1	Male <input type="checkbox"/>	Female <input type="checkbox"/>	APPLICANT 2	Male <input type="checkbox"/>	Female <input type="checkbox"/>
Surname			Surname.....		
Given Names			Given Names		
Date of Birth			Date of Birth		
Previous Name/s			Previous Name/s		
Any Alias Names (if applicable)			Any Alias Names (if applicable)		
Residential AddressPost Code.....			Residential AddressPost Code.....		
Postal Address (if same write as above)Post Code.....			Postal Address (if same write as above)Post Code.....		
Telephone (H)..... (W)..... Mobile.....			Telephone (H)..... (W)..... Mobile.....		
Email address			Email address		
Do you want the Post Adoption Services to contact you by telephone? Yes <input type="checkbox"/> No <input type="checkbox"/> Preferred <input type="checkbox"/>			Do you want the Post Adoption Services to contact you by telephone? Yes <input type="checkbox"/> No <input type="checkbox"/> Preferred <input type="checkbox"/>		
Do you want the Post Adoption Services to contact you by email? Yes <input type="checkbox"/> No <input type="checkbox"/> Preferred <input type="checkbox"/>			Do you want the Post Adoption Services to contact you by email? Yes <input type="checkbox"/> No <input type="checkbox"/> Preferred <input type="checkbox"/>		
Aboriginal or Torres Strait Islander Yes <input type="checkbox"/> No <input type="checkbox"/>			Aboriginal or Torres Strait Islander Yes <input type="checkbox"/> No <input type="checkbox"/>		
ARE YOU: <input type="checkbox"/> An Adopted Person <input type="checkbox"/> Birth Parent/s <input type="checkbox"/> Adoptive Parent/s <input type="checkbox"/> Birth Sibling <input type="checkbox"/> Other Relative (Please specify).....					
<i>Other relatives may apply for the Identifying adoption information on the following grounds: the adoptee cannot be found, the adoptee is deceased, the adoptive parents are deceased, or the birth parents are deceased. Applicants applying as a "birth sibling" or "other relative" must provide documentary proof of relationship and entitlement to receive information (i.e. applicant's own birth certificate and if relevant, death certificate of the deceased party).</i>					

DETAILS OF ADOPTION (if known)

The adoption was arranged by:

State Welfare Department ☐
Solicitor ☐ (Please specify).....
Other ☐ (Please specify).....
Date of Adoption Order..... State in which Adoption Order granted.....

DETAILS OF ADOPTED PERSON (if known)

Name before adoption.....
Name after adoption.....
Date of birth..... Place of birth

DETAILS OF ADOPTIVE PARENTS (if known)

Name of adoptive mother.....
Date of Birth..... or Age.....
Name of adoptive father.....
Date of Birth..... or Age.....

DETAILS OF BIRTH PARENTS - at time of adopted person's birth (if known)

Name of birth mother.....
Date of Birth..... or Age.....
Name of birth father.....
Date of Birth..... or Age.....

SERVICE REQUEST

Please indicate which service/s you wish to receive - see back page for a description of services

- **Access to Original Birth Certificate with Adoption details** ☐
- **Access to Adoption Court Documents** ☐
- **Access to Non-identifying information** ☐
- **Implementation of Adoption Plan** (applies only to adoptions finalised after 1994) ☐
- **Message Box** ☐
(please read the extract of the Adoption Act 1994 Regulations before signing your declaration)
- **Inter-country Liaison** ☐
- **Priority Outreach** (limited services; legal, medical or age-related grounds only) ☐
Reason for priority outreach
(Supporting documentation needs to accompany your application)
- **Contact or Information Veto Variation/Cancellation** ☐
(Please state details in Additional Information Section e.g. Person to whom the veto relates, type of veto and length of variation)
I/We wish to ☐ cancel ☐ vary
My/our contact/information veto against (please specify).....

STATUTORY DECLARATION

APPLICANT/S

I/We (name/s)

Of (home address)

.....Postcode

Employed as

(Occupation)...../.....

Do solemnly and sincerely declare that all facts contained herein are true and correct to the best of my knowledge and I have received and read a copy of Part 6 of the Adoption Regulations 1995 which contains provision relevant to the leaving of messages and any message/s left comply with these regulations. I make this solemn declaration under the Oaths, Affidavits and Statutory Declarations Act 2005.

Signature:.....

Applicant 1

Signature:.....

Applicant 2

Declared at.....in the State of.....

This..... Day of 20.....

WITNESS

Before me (print name of witness).....

I certify that proof of identity was sighted/Certificate of Identity obtained, before witnessing the signing of this form

Signature:.....

Title:.....

Stamp

PEOPLE WHO CAN WITNESS THE STATUTORY DECLARATION:

Academic (post-secondary institution), Accountant, Architect, Australian Consular Officer, Australian Diplomatic Officer, Bailiff, Bank Manager, Chartered secretary, Chemist, Chiropractor, Company auditor or liquidator, Court officer (Judge, magistrate, registrar or clerk), Defence Force officer (Commissioned, Warrant or NCO with 5 years continuous service), Dentist, Doctor, Engineer, Industrial organisation secretary, Insurance broker, Justice of the Peace, Lawyer, Local government CEO or deputy CEO, Local government councillor, Loss adjuster, Marriage Celebrant, Member of Parliament (State or Commonwealth), Minister of religion, Nurse, Optometrist, Patent Attorney, Physiotherapist, Podiatrist, Police officer, Post Officer manager, Psychologist, Public Notary, Public Servant (State or Commonwealth), Real Estate agent, Settlement agent, Sheriff or deputy Sheriff, Surveyor, Teacher, Tribunal officer, Veterinary surgeon

Or, Any person before whom, under the *Statutory Declarations Act 1959* of the Commonwealth, a statutory declaration may be made.

PROOF OF IDENTITY:

One of the requirements of the Adoption Act 1994 is that proof of identity must be shown to receive past adoptions services. Where a person is unable to provide sole proof then proof may be established through the provision of one document from **each** of the primary and secondary lists. Where the person is unable to fulfil this requirement then proof may be in the form of a Certificate of Identity.

SOLE PROOF

Licence with photograph
Current passport
Tertiary education ID with photograph
Public Service ID with photograph

SECONDARY PROOF

Licence without photograph
Medicare card
Bank or credit card
Tertiary education ID card without photograph
Public Service ID card without photograph

PRIMARY PROOF

Full birth certificate or extract
Marriage certificate
Naturalisation or Citizenship certificate
Immigration papers
Deed poll change of name document

Land evaluation notice (current)
Water or Council rate (current)
Telephone, power or gas account
(less than 6 months old)
Bank, Building Society or Credit Union
Statement (less than 12 months old)

CERTIFICATE OF IDENTITY

This may be in the form of a Statutory Declaration from a person who has known the applicant/s for a period of at least twelve months, and is unrelated to them.

DESCRIPTION OF SERVICES

- **Original birth certificate with adoption details**

Parties to an adoption, birth siblings and other relatives (in certain circumstances), can access the original birth certificate together with the adoption details. This may include details such as the adopted person's name at birth, place of birth, birth mother's name, adoptive parents' names, date of adoption, Order of Adoption number, and the child's name after adoption. Generally, the birth father's name does not appear on the certificate unless he was married to the birth mother at the time of the child's birth.

- **Adoption court documents**

These documents are the legal documents required to finalise the adoption. These may consist of the Order of Adoption, the Application for the Order of Adoption signed by the adoptive parents, the Form of Consent/Affidavit to the Adoption signed by the birth parent/s and the application to Dispense with Consent (if relevant). In most cases, the birth father will be named in these documents.

- **Non-Identifying information**

This is additional information from records held by the Department of Communities, Adoption Services that may provide details about the adoption and the relevant parties. The information may include physical descriptions, family history, education, occupation, birth details, general medical information, personal characteristics, interests and hobbies. It does not include identifying information such as names, addresses or dates of birth. Where possible, applicants will receive photocopies of their own records.

- **Priority Outreach**

An outreach is an approach made on behalf of the applicant to another party to request information or contact. Post Adoption Services can provide a limited outreach service to applicants who are not eligible to receive identifying information or in special circumstances where there are legal, urgent medical or age-related grounds.

- **Message Box**

A person can leave a message/photograph with Post Adoption Services. The message is either passed on, or kept at the Department until the person for whom it is intended makes contact with Post Adoption Services. The person for whom the message is intended is always given the opportunity to decide whether or not to accept the message. All messages are confidential.

- **Contact or Information Veto Variation/Cancellation**

A Contact Veto means a statement registered with Post Adoption Services by which a person forbids another person to contact them. A person who placed a Contact Veto prior to 1 June 2003 against another person is able to vary or cancel their Contact Veto at any time.

An Information Veto is a request that has been registered with Post Adoption Services, by a person who does not want the identifying information about the adoption released to another person. Amendments to the Adoption Act 1994 means that Information Vetoes placed prior to 1 June 2003 expired on 1 June 2005.

Notes/Additional Information:

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.....
.....
.....

Where to send your application form:

Post Adoption Services
Adoption Services
Department of Communities
Locked Bag 5000
Fremantle 6959
WESTERN AUSTRALIA

(Original application form must be posted)

Web: www.wa.gov.au (search Adoption Services)

How to contact us:

Address: 5 Newman Court
Fremantle 6959

Telephone (Freecall): 1800 182 178

Email: adoptions@communities.wa.gov.au

Part 6 - Messages

51. When messages may be left

For the purposes of section 79(1), a person may leave a message for another person in relation to an adoption —

- (a) if a person has obtained identifying information under the Act about another person but has not been able to locate that person;
- (b) if the CEO is providing mediation in relation to an adoption;
- (c) if a person has requested an information veto or a contact veto and wishes to leave information for a person who is affected by the veto; or
- (d) if a person is affected by an information veto or a contact veto and wishes to leave information for the person who requested the veto.

[Regulation 51 amended in Gazette 30 Nov 2012 p.5779.]

52. How messages are to be left

A person who wishes to leave a message is to —

- (a) apply to the CEO to do so in a form approved by the CEO;
- (b) satisfy the CEO as to his or her identity;
- (c) be either 18 or more years of age or provide, with the application, the written consent of each person with parental responsibility for the applicant to leave the message; and
- (d) before leaving a message, provide the CEO with a statutory declaration to the effect that —
 - (i) he or she has read the regulations in relation to leaving messages;
 - (ii) the message is of a kind that is provided for by regulation 51; and
 - (iii) the message does not identify a person in respect of whom an information veto has been lodged.

[Regulation 52 amended in Gazette 30 Nov 2012 p. 5777 and 5779.]

53. Form of messages

A message may be in such written or recorded form as is approved by the CEO.

For example: photographs, videotapes, audiotapes, and computer disks.

[Regulation 53 amended in Gazette 30 Nov 2012 p. 5779.]

54. Information to be provided by CEO

The CEO is to ensure that copies of the regulations in relation to messages are available to persons who apply under this Part to leave messages and that such persons are informed of any contact veto or information veto that is relevant to the application.

[Regulation 54 amended in Gazette 30 Nov 2012 p. 5779.]

55. Notifications by CEO

- (1) A person who is affected by an information veto or a contact veto and leaves a message for the person who requested the veto may also request the CEO to contact that person and advise him or her that a message has been left.
- (2) If —
 - (a) a person has requested an information veto or a contact veto and leaves a message for a person who is affected by the veto; and
 - (b) the person who is affected by the veto makes an enquiry to the CEO in relation to the adoption,the CEO is to advise the person affected by the veto that a message has been left.
- (3) If the person for whom a message has been left has been advised that the message has been left but has not collected the message, the person who left the message may request the CEO to remind the person of the message and the CEO may do so at such time as the CEO thinks is appropriate.
- (4) If a message is collected, the CEO is to notify the person who left the message of the fact and date of collection.

[Regulation 55 amended in Gazette 30 Nov 2012 p. 5779.]

56. Messages confidential

All messages left with the CEO under this Part are confidential and not to be inspected by or on behalf of the CEO except to the extent necessary to determine the sender and intended recipient of the message.

[Regulation 56 amended in Gazette 20 May 2003 p. 1792; 30 Nov 2012 p. 5779.]

57. No obligation to collect messages

A person does not have to collect a message if he or she does not wish to do so.

58. Holding and collecting messages

- (1) A message left with the CEO under this Part is to be held by the CEO until—
 - (a) the message is collected by the person for whom it was left; or
 - (b) the message is withdrawn by the person who left the message.
- (2) A person cannot collect a message unless —
 - (a) he or she satisfies the CEO as to his or her identity; and
 - (b) the person is 18 or more years of age or provides the written consent of each person with parental responsibility for the person to collect the message.

[Regulation 58 amended in Gazette 30 Nov 2012 p. 5778 and 5779.]

ATTACHMENT 2

Requesting Access to Adoption Records

- You can request access to adoptions records both verbally and in writing.
- The Adoptions area is contactable via a 1800 number (1800 182 178) and also a central email mailbox (Adoptions@communities.wa.gov.au).
- Every individual requesting access to adoptions records is required to fill out a Form (Form 303). This form confirms an individual's identity and the nature of their request.
- The current wait time for a standard request is 8-10 months.
- To expedite this process, Communities can prioritise applications based on the applicant meeting one or more of the following criteria:
 - An urgent medical issue (involving a hereditary issue, life threatening or terminal illness)
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 - Applicant is an adoptee who may have multiple siblings (some or all of whom may have been adopted)
 - Late discoverer adoptee
 - Applicant has some form of impairment (physical or mental)
 - Applicant is someone who Communities recently advised of the death of a party to the adoption (usually a birth parent or sibling who has been advised of the death of the adoptee)
 - Legal issue (usually involving resolution of a deceased estate).

Parliamentary Inquiry

- Information on the Parliamentary Inquiry into Past Forced Adoptive Policies and Practices is available at the Western Australian Parliament website <https://www.parliament.wa.gov.au/parliament/commit.nsf/0/B033B4B8EA32B0204825895E0019ED60?OpenDocument#Details>
- The closing date for submissions is Friday 16 June 2023. Submissions received after that date may be considered. If you are unable to present your submission by the closing date, please contact the Committee Clerk, Kristina Crichton on 08 9222 7231 or env@parliament.wa.gov.au .