



Safe Home For Life
Department of Family and Community Services
Email: openadoptioninstitute@facs.nsw.gov.au

29 July 2015

Attn: Special Projects

Re: Establishing an Institute of Open Adoption – Issues Paper

AbSec appreciates the opportunity to provide comment with respect to establishing an Institute of Open Adoption as part of the NSW Government's ongoing reform agenda, Safe Home for Life.

AbSec, as the peak Aboriginal child welfare organisation in NSW, and our members remain committed to promoting the safety and wellbeing of Aboriginal children and young people in our communities. We assert that the best way to achieve this is to provide culturally embedded holistic child and family services that deliver a tailored service to children and their families within their community. Investment in approaches that support parents and broader family and community networks to keep children safe and connected are essential to improving outcomes for vulnerable Aboriginal children and young people.

That said, we acknowledge that there may be times where children are unable to remain safely in their home, resulting in some children requiring alternate care. The safety and wellbeing of our children is naturally a significant priority for AbSec, our member agencies, and our communities more broadly. Aboriginal community-controlled agencies continue to develop their capacity and practice expertise to provide accredited out-of-home care services and case management to Aboriginal children and young people, supporting children in their communities that require alternate care to remain connected to their families, community and culture.

We, on behalf of our members, wish to reiterate our opposition to the adoption of Aboriginal children and young people from the child protection and out-of-home care systems. Our communities remain concerned about the significant potential for cultural dispossession and loss associated with long-term orders administered by non-Aboriginal systems, particularly where parental responsibility may be allocated outside of the child's Aboriginal family, and with no ongoing cultural safeguards to keep Aboriginal children connected to their family, community and culture. We feel that this position reflects not only the rights of Aboriginal children to maintain and develop their cultural identity, but also serves to promote the wellbeing of Aboriginal children, with cultural connection identified as one of the key features associated with resilience for vulnerable children and young people¹. These concerns are exacerbated by persistent issues in the child protection and out-of-home care systems with respect to the services provided to Aboriginal children and families, including appropriate services to families in crisis, the timely and accurate identification of Aboriginal children within the system, the application of the Aboriginal Child Placement Principles (ACPP), and the effective implementation of meaningful cultural care plans for Aboriginal children in alternate care, even when placed in accordance with the ACPP².

These concerns are of critical importance to our communities in the face of recent shifts towards legal permanence in OOHC including guardianship and adoption. In particular, concerns regarding the timely identification of Aboriginal children and young people within the child protection system, or the long-

¹ National Scientific Council on the Developing Child (2015). *Supportive Relationships and Active Skill-Building Strengthen the Foundations of Resilience: Working Paper 13*. <http://www.developingchild.harvard.edu>

² Cripps, K., and Laurens, J. (2015). 'Protecting Indigenous Children's Familial and Cultural Connections: Reflections on Recent Amendments to the *Care and Protection Act 2007* (NT)', *Indigenous Law Bulletin*, Vol. 8(15).

term placement of Aboriginal children outside of their culture and with no meaningful connection to their family, community or culture, may have the effect of leading to their adoption by non-Indigenous people (including with the child's consent). While AbSec respects the rights of young people to make decisions about their own lives, AbSec is concerned about the context in which such decisions are made in the absence of a meaningful cultural connection in the lived experience of Aboriginal children and young people in out-of-home care, reflecting the ongoing failure of the child protection system to protect the cultural rights of Aboriginal children in its care. Recent experience from other jurisdictions in Australia reinforces these concerns. For example, while AbSec continues to struggle for access to data regarding the development and implementation of meaningful cultural care plans for Aboriginal children in care, Andrew Jackemos (Victorian Commissioner for Aboriginal Children and Young People) reported that in Victoria, despite the presence of a legislative mandate, cultural plans were being implemented in less than 10% of cases, and many of these lacked any meaningful connections to family, community and culture³. We acknowledge that the Issues Paper notes many of these issues with respect to Aboriginal children, and that the "objects, functions and structure of the proposed institute should be designed without reference to the adoption of Aboriginal and Torres Strait Islander children."

AbSec recognises the importance of stability and enduring relationships for children and young people across their development, particularly for those exposed to risk or adversity. Further, AbSec supports the principle behind the formation of this institute, and the need for an evidence-based approach to permanence and stability for non-Aboriginal children in out-of-home care that is embedded in practice to drive better outcomes for vulnerable children and young people. We will undoubtedly watch the progress and work of the institute with interest. AbSec and our members are currently exploring similar issues, developing an Aboriginal perspective on the issues of permanence and stability for Aboriginal children in out-of-home care that is evidence-based and outcome-focused. This reflects our rights as Aboriginal people to lead the development of systems concerned with the welfare and wellbeing of Aboriginal children, reflective of the "best interests of the child" principle as defined by their Aboriginal community, based on the principle of self-determination.

As such, we ask that our ongoing opposition to the adoption of Aboriginal children from out-of-home care be clearly reflected in the tender process, and that the institute does not promote the adoption of Aboriginal children.

Regards



Tim Ireland
Acting Chief Executive Officer

³ Jackemos, A. (2015) 'International Human Rights Day Oration. Linking our Past with our Future: How Cultural Rights can Help Shape Identity and Build Resilience in Koori Kids', *Indigenous Law Bulletin*, Vol. 8(15).