

Overview

- The clear aim of the proposed Institute of Open Adoption is to increase the number of open adoptions from out-of-home care (OoHC).
- For the proposed Institute to be respected, especially in jurisdictions outside of NSW, it needs to change its purpose.
- It is unfortunate that the focus of the Institute is so narrow, as there is a real need for Australian research on broader questions around achieving permanency and stability for children in OoHC, rather than a narrow focus on adoption.
- The analysis of the reasons for the current low numbers of adoptions from care provided in the Issues Paper is limited and biased.
- The Issues Paper does not examine the issues of birth certificates and identity in a meaningful way.
- The Issues Paper views the only alternative to the stability of adoption as unstable foster care, and ignores other legal and placement options.
- It is difficult to envisage how the Institute could become self-funding unless it obtains money from pro-adoption groups, which would represent a significant conflict of interest.
- Governance arrangements are critical, otherwise the Institute will have no legitimacy as a research/policy/practice driver.

Conflicts of Interest:

- There is a conflict of interest in establishing an Institute for the purpose of increasing the number of open adoptions from OoHC – a policy of the NSW government enshrined in legislation, but which is also to be independent of and not part of F&CS.
- Greater consideration and clarification is required regarding the delineation of responsibility for policy making in OoHC in NSW (i.e. vested in F&CS) and differentiation, if appropriate, from responsibility for ensuring practice quality in implementation of F&CS's OoHC policy, particularly given that the Institute is to “focus on issues within the control of the NSW Government in relation to adoption of children”.
- There is another conflict of interest in establishing an Institute which seeks to facilitate the development of expert opinion that is independent, impartial and based on objective research, but which may also be used to assess the permanency needs of individual children in OoHC which F&CS, according to its own policy, would prefer to see adopted.

Discrimination:

- The Issues paper, while recognising the loss of cultural identity inherent in adoption for Aboriginal children, does not acknowledge the impact on identity and social and legal connections with family of origin for non-Aboriginal or Torres Strait Islander (ATSI) children. Adoption, whether open or closed, involves the issuing of a new birth certificate for an adopted child; cancelling their originally registered birth details; and replacing information with the details of the adoptive parents as if the child was born to them.
- In addition, there is limited research on the long-term efficacy of arrangements around contact in adoption, and a need for outcomes data on whether contact is actually maintained over the long-term. For example, how is it affected by decisions made by adoptive parents who have the legal power to terminate contact between the child and their family of origin at any time, irrespective of whether contact was deemed to be in the best interests of the child and established at the time of the child's 'open' adoption. In addition, what support is required to enable families of origin to continue to maintain a positive presence in their child's life.
- It is therefore inconsistent at best and discriminatory at worst to hold that, in NSW, adoption is *the last preference* for ATSI children, but *the first preference* for non-ATSI children unable to be reunited with their families.

Independence:

- 'Independence' is mentioned many times in the Issues Paper, but is never clearly defined.
- The Issues Paper notes that: "both F&CS and Adopt Change have coincidentally, and separately, commenced research on aspects of knowledge and attitudes to adoption" (page 26); and "Barnados has established a Centre for Excellence in Open Adoption" and "Adopt Change has stated that it is considering a Centre of Excellence in the area of post adoption" (page 9).
- In reality, Barnados and Adopt Change both take a strongly pro-adoption position, and Barnados is perhaps the only OoHC provider in Australia that publicly does so.
- From VANISH's perspective, an 'independent' Institute seed funded by F&CS would be more appropriately focused on researching **all** longer-term/permanent care options for children in OoHC who are unable to return to their families, rather than be restricted to open adoption.
- It will be crucial for the independence, credibility and integrity of the proposed Institute:
 - that it ensures people associated with Adopt Change, Women's Forum Australia, The Centre for Independent Studies and other similarly aligned organisations, are not associated with it;
 - that it's business model is open, transparent and free of influence from people and organisations that provide it with financial grants, gifts or fees for service;

- that it researches longer-term/permanent care options available in all states and territories of Australia, not just in NSW; and
- that the NSW government does not influence the Institute in a way that biases or compromises the research.

Best Practice:

- There is a dearth of Australian-based longitudinal research regarding the outcomes of open adoption; that is, which extends into early adulthood and beyond for adoptees. On this basis, it is a leap to assume that the proposed Institute should focus on research that will facilitate open adoptions, rather than begin by engaging in research which determines whether open adoption is the best option for children in OoHC unable to return to their families, as appears to be believed primarily on the basis of overseas studies.
- A focus restricted to open adoption would not enable the proposed Institute to consider other, potentially more effective and preferable, permanent family care options for meeting the needs and rights of vulnerable children in OoHC who cannot be raised by their families/extended family networks. In turn, this would restrict the Institute's capacity to ensure that past mistakes and tragedies are not repeated.
- Adoption is not an outcome, rather it is one of several alternative long-term/permanent care placement options which are not ideal for upholding a child's needs or rights.
- Much of the language, terminology and material used in the Issues Paper – particularly in the Appendix – reflects that the rationale for endeavouring to increase the rate of open adoptions from OoHC in NSW is based on the preferences of politicians and prospective adoptive parents, rather than on the needs and rights of vulnerable children. For example:
 - “children who might be suitable for adoption” (Appendix, p. 27), rather than children for whom adoption might be a suitable option;
 - The ‘Case Study: Consideration of parental options’ (Appendix, pp. 31-35): while attempting to demonstrate unequivocal support for adoption from care as being in the best interests of the child, the benefits of adoption as outlined also focus on how adoption is in the best interests of the prospective adoptive parents. Granted that the dynamic is explained with regard to the flow on effect, that the child feels more secure and integrated within the adoptive family, if adoptive parents have legal security.

Recommendations:

In summary, in order for the proposed Institute of Open Adoption to have credibility in the wider OoHC sector and adoption stakeholder communities in Australia:

- Its research must address:
 - ethical, human rights, historical and sociological factors;
 - compare outcomes for children from adoption and other permanent/long-term alternative care options;
 - factors relating to the motivations and suitability of prospective adoptive parents; and
 - longitudinal outcomes for the children and their families of origin, as well as for the adoptive parents.
- Its role must be restricted to research and the provision of training, otherwise it will be dismissed as another mouthpiece for Adopt Change.
- It must be integrally supported by/associated with/part of a reputable university, so that an existing framework of ethical and academic review is applied to any research conducted.
- It must be ensured that the Institute is independent and at arms' length from pro-adoption lobby groups, including people associated with Adopt Change, Women's Forum Australia, The Centre for Independent Studies, and other similarly aligned organisations.
- Its business model must be open, transparent and free of influence from people and organisations that provide it with financial grants, gifts or fees for service.
- It must research longer-term/permanent care options available in all states and territories of Australia, not just those available currently in NSW.
- The NSW government must not influence the Institute in any way that biases or compromises the research.