

27 July 2015

Standing for
foster families
and adoption

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Special Projects
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Re: Institute of Open Adoption Issues Paper

FACS is seeking your feedback and input on [Issues paper – establishing an Institute of Open Adoption](#) (PDF). Feedback from interested individuals, non-government organisations and universities is welcomed and encouraged. Feedback must be received by close of business on 29 July 2015.

1. **Connecting carers fail to connect carers** – very few people know about this paper.

Connecting Carers has not notified any carers about the availability of this paper. Further, Connecting Carers does not fulfil its charter, either that or the term connecting carers is incorrect. It does not actually connect carers on issues, policy, reforms or process changes. A group needs to be engaged by FACS that will do that and Karitane needs to be removed from management of this group.

2. What is the proposed focus of the Institute?

As a leader in the development of best practice in adoption, the Institute of Open Adoption will:

- conduct applied research on open adoption from out-of-home care
- increase awareness about the benefits of adoption from out-of-home care
- develop resources to help the sector better understand open adoption and provide expert reports to support decision making around permanency
- improve support services for people involved in adoption.

\$2.8 million over three years, with the Institute to find funding after that, will not achieve very much of the above. So the focus needs to be decided, is it creating change by focussing on:

- **The public** (unlikely this is needed -they are completely behind open adoption)
- **FACS?** (required)

- **The Children's Court** and how they are addressing the recent changes in legislation? The tender needs to include detail on this and any issues/concerns.
- **Foster families** – who are bewildered by the slow process, red tape and lack of child focus
- **Agencies** - of whom only three have started adoption and one must wonder why the others are so reluctant to work in this space? Further, we have noticed agencies can be quite confused around concepts of permanency considerations and planning – moving children unnecessarily and constantly raising restoration even though long term care orders are in place?

The funding does not allow a focus on more than one or perhaps 2 of these. Perhaps FACS should work on a clearer focus for an Institute with little funding at the beginning of this process, instead of being so open-ended. It will be difficult to compare Institute tenders without this noted direction.

3. Information on adoption and the new legislation is lacking

This forms an important context to understanding the Institute and its function.

- How is the legislation working since it was enacted a year ago?
 - How many children entering OOHC now have 'open adoption' on their care plan instead of long term orders to the Secretary?
 - Has the Children's Court stopped long term contact orders or are they still instigating such things, against the new legislation? What impact does this have on adoption possibilities?
 - What proportion of decisions are being made within the new time frames for court decision making?
- How many Section 90/91 cases are before the Children's Court each year from 2010 on? What is the proportion of decisions that support the application?
- How many Section 90/91 applications are received mid-way through the adoptive process?
- What is the process after a child turns 12 and wishes to be adopted – why are they not immediately accepted into the program?
- If FACS resources is the government response – why will FACS not lift the resources? There is a strong economic argument with **many** families happy to relinquish OOHC payments once an adoption is processed. This has large financial savings opportunity.
- How many adoptive families are currently on FACS books? How many do they estimate could be in this process if given a chance to step forward with a new policy?
- How many children are in OOHC 5 years or more and could/should potentially be considered for adoption **as a priority**?
- What is FACS going to do with the 'grandfather families' who were waiting for adoption pre the new legislation? We were promised this in 2012 and 2013 by the Baird Government.

The public has a right to understand these things and these statistics influence the direction and basis of the Adoption Institute.

4. Families demand open adoption be an option, a viable option, NOW.

The impediments to open adoption are relatively well known:

- cultural - FACS and also some agency staff reluctance;
- administrative - only 25 FACS staff working on open adoption, and a system requiring paperwork to such an extent that it penalises many families;
- double jeopardy - kids whose birth parents are adversarial to the carers, and for whom contact is difficult, are not allowed adoption opportunities by FACS and the courts, much to the detriment of these children;
- historic – Indigenous children are currently denied any adoption opportunity. The FACS policy “*Open adoption is an important way of providing a permanent and safe home to children and young people who can’t return to their families or kin. Currently in NSW, there are only few a children or young people being adopted each year despite the research that says how beneficial it is*”, only applies to white children, which in our view is an awful racism;
- A system that technically allows never ending Section 90/91 appeals and court argument, **means most sensible people would step back from considering long term fostering and open adoption.** Only really passionate people or risk takers, myself and others in this group included, engage with this system that often puts carers and their kids last (see the comments below).
We believe many more good families would step forward to assist if child security and permanence was assured, and if open adoption was a viable option.

A current change.org petition provides anecdotal evidence of the dismay and harm the current system results in. There are over 1000 pertinent statements – some are below as a very brief sample. Currently 1830 families, friends, caseworkers, grandparents, foster kids, adopted kids have signed the petition.

https://www.change.org/p/prime-minister-tony-abbott-premier-mike-baird-minister-family-and-community-services-brad-hazzard-streamline-and-expedite-adoption-for-children-in-out-of-home-care-in-nsw?recruiter=131886475&utm_source=share_sponsor&utm_medium=email&utm_campaign=share_email_responsive

I was a foster child, screwed by the system!!!!

It's the right thing to do for all those kids in care that want to be adopted.

All children deserve the love and care of a stable family. Too many children are living without certainty in their lives that they will remain with the foster family who are caring for them. Such is the case for the foster child living with my daughter and her family. She is truly loved by this family but her future is not secure.

It is a traumatic experience for a child as it is going into foster care, they need stability, they need it long term and quickly, don't let the child or their foster families live with constant worry and fear of instability.

I am a carer in the adoption process for more than 5 years. We are finally getting to crown solicitors then eventually Supreme Court. We have 10 yo twins that we have had since 3 yo. They cannot understand why it takes so so long - they want their family to be forever now - they want to know they have the same name forever. They also know that birth mother is a part of our life forever. Please oh please help us with adoption of these most precious children that deserve the best we can give.

My reason for signing this petition is quite simply my husband and I have one beautiful adopted daughter, who has completed our lives and not only enriched her life but ours too. We are very proud of her and she is very proud of the fact she is adopted along with realising how her life could very well be very different if she had spent her life in institutions and passed through the system of fostering to many homes along her life's journey.

We also have a family member who had 2 beautiful children, sister and brother who could not wish for a better parents, grandparents and extended family members to call their own. These children have been in their care, loved and well cared for over the past 5 years. They are still awaiting the process of adoption to go ahead.

How difficult this must be when you have nurtured, care for them and above all love them like your own. These 2 adorable children are a credit to their parents. Please pass the legislation so they can legally adopt these 2 children.

I'm signing this because we are one of the families caught up in this nightmare. 6 years of fighting to adopt through the foster care programme.

We are one of these families who desperately want to adopt our Foster daughter of more than 3 and a half years with the blessing of her birth mother. We have been told we will need to wait at least 5 years plus. It's not good enough Australia.

I am a foster carer of a 4.5 yo girl from birth in permanent placement and yesterday we got a call from FACS to inform us the biological Mother is applying for her to live with her. We now have to wait and see if just maybe the baby we took into our home and who has always been and equal and important family member and have spent 3.5 years trying to adopt may just be ripped from our family based on a courts decision that may happen some time in the future. Legally she may not be ours but for every minute and hour since we were sent her photo and name she has been our daughter in every way that matters.

We have been trying to fight to adopt the 3 children that are in our long term care for over 9 years for elder two and 5 years for youngest. Our children need legal adoption (and or guardianship in some cases) and the stability this brings them. Our children want adoption. Please allow more funding to this vital area so children can grow up not in limbo. Please give these children a voice.

Please stop the minimising of the role "long term carers" play in children's lives over first days, weeks, months and then into years and years of total devotion as we raise these precious children. We are not a "placement" we are a home. We are not just carers we are "mum" and "dad." Yet we love and care for our children's birth families too. We have waited and fought so long for this. 12 staff members for adoption in NSW is not enough. Myself and many many other carers we know want and fight to adopt the children we love and raise. Please give us all a voice and give our children a permanent, loving, nurturing, whole and complete family unit.

I have had my 10 year old son in my care since he was 2 weeks old....i picked him up from hospital and has been with me ever since. I started his adoption process when he was 3 years old with full consent from both maternal and paternal families....it was then discovered that 8 generations ago there is aboriginality in his family, therefore my son is Aboriginal....subsequently the process was abruptly stopped as DOCS does not consent to Aboriginal adoptions.

In 2013 i was told that i could once again begin adoption proceedings again as the Courts had changed their views and would now consider individual cases.....after a very lengthy assessment process the official report came back with a glowing re commendation for us as an adoptive family although it ended with the statement "i do not feel that adoption is in the best interests of the child due to cultural reasons."

My son is yet again devastated as all he wants is to be a permanent member of our family, with the knowledge that he can never be taken away from us. He has constant anxiety with "bad dreams" about DOCS taking him away.

My son and thousands of other children just like him DESERVE the right to have the right of a permanent, stable and secure place to call home with a loving family that will always be there for them. My son's exact words are " how can some judge that doesn't know me have the right to say what happens in my life."

Things need to change and they need to change now!!!!

Page 29 of the Issues paper noted *"The institute may undertake applied research on why children entering out-of-home-care are not being considered as suitable for adoption.*

The evidence is in this voluntary Change.Org survey, and its statistically significant given the number of responses. It describes fairly clear reasons.

Parents and families are begging for adoption. The issues are FACS being

1. Culturally opposed,
2. Staff wish to avoid the extra paperwork, and
3. A policy of not letting families proceed to become independent families unless flaw free contact plans are in place.

We recommend, rather than a response based on bureaucratic thinking – we and the public want a sharper response, a response that takes a large step forward, a response that steps out of the mould. Not a conservative response. Please see point 6 below.

5. A simple start and a solution

To respond to the statement: *"The NSW Government has recognised that although adoption is not appropriate for all children in out-of-home care, more can be done to ensure it is considered when it is in the best interests of the child"*, simply set up a working team that aims to reduce the number of families waiting, right now. **This month** the government could put more staff on this issue than that in a NSW Motor Registry.

Work to resolve the backlog. I am advised the Supreme Court won't be overstretched if this is done properly. The NSW Premier should set and announce a target – *"we will resolve 500 families currently in the system (not new) by the end of 2016, and ask for any family wishing to take this path to step forward now for proper, consistent consideration"*.

A proper, high capacity team put in place to work with this group. The FACS domestic adoption unit would move into this team. Similar to the NSW Baird Government approach to road maintenance, a public private sector partnering approach.

This would be seen by the community as an amazing policy initiative and would be publicly applauded! The new NSW Adoption Institute would then have a key role in ensuring open adoption policy is effectively implemented. Furthermore it would be transparent and accountable.

Secondly, the first piece of policy development is that the Institute should consider immediately, that is report back in 12 weeks once the project is established, on the ways to remove double jeopardy for the poor kids for whom contact will be difficult and not pass this FACS test of happy contact plans.

The Supreme Court is currently used as the reason for requiring high quality contact plans – we say the boundaries can be pushed, including by legislation. Life is not perfect in OOHC and contact plans are rarely well organised given the dysfunctional participants. The NSW Government must stop penalising these children who have already had a bad start. It seems inherently unfair the Government won't let these kids have an equal chance of going forward for adoption.

6. Overlap

The Institute will lead local and up-to-date research on adoption practices. It will also support the organisations that work in adoption and encourage a change in culture around permanency planning.

The Institute is a great idea for long term planning. A lot of research takes place from the Barnados Institute of Open Adoption - and it must be in the new Institute's performance agreement they cannot duplicate the work that has been done – that would be a heartbreaking loss of money and time.

Similar Adopt Change attitudinal studies should be accepted as Institute data, and not in any way replicated.

7. Revenue

The NSW Government should make it clearer in this tender that the Institute could charge FACS for its advisory services, as a way of maintaining ongoing funding. The Institute must

provide these services, including clinical reports accepted at the Children's Court and court representation, to any long term foster family **free of charge**.

Foster families currently suffer direct financial loss if they need to go to court and be joined to their children's cases to provide evidence and information on the child and its physical, emotional and well being needs. The fact is the Children's legal representatives often don't even bother to meet the children. Legal Aid and FACS refuse to manage this issue.

However it is well known that when a foster family is joined to court proceedings, they can insist on a court appointed clinician making a thorough assessment of potential harm to the child of the trauma of possible relocation.

With this, decision making is then far more likely to be clear and in the child's interests (as is different on occasion to the position taken by FACS or Legal Aid, which is often in support of the birth parent with sometimes little regard for trauma to the children).

Issue 5 – Yes the Institute must play a role in the evaluation of individual interventions and provide expert evidence in individual matters.

I am a foster carer of 12 and half yrs of same 2 children who had a short reunification with their mother which was disastrous & had huge long term effects on the children & continuing effects.

At the moment many foster families have been promised adoption but are still battling for security in The Childrens Court. In once current case contact schedules have been ordered by a Judge and FACS and the family has been told that will make any future adoption impossible.

8. Transparency

FACS, the court, court processes, are clouded in secrecy. Foster families can be bewildered by the court processes and receive conflicting and sometimes quite wrong information from the agencies and FACS about these processes and adoption processes.

This Institute should answer public questions about adoption process independently, timely and openly. It must have a communication function.

The Board governing this group must have long term/adoptive carer representation.

9. National Inquiry into OOHC and Adoption

The Institute should immediately work with a national adoption agenda and potentially, funding should be reconsidered in the light of this inquiry and its recommendations.

We appreciate the chance to comment. It bothers us the paper was not widely published, however we may be corrected on that point.

Fiona Court and carers in the group

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Attachment A – Standing for Foster Families and Adoption

Additional Information

Below is an explanation of the PPP model I am suggesting in my paper

The PPP would be an outsourcing of these administrative services.
It could work basically as follows:

- taking the \$2.8m, add the resource of the OOHC Adoptions team, form a new public/private management structure,
- set up new organisation - NSW Adoption Institute (including decent communications resources)
- establish governance and reporting requirements (the latter directly to the Secretary and Minister)
- Announcing the new Government policy
- Calling for families to step forward if they wish to be considered for open adoption.
- Categorise applications – for example 6 groups of 100 families each
- Tender for bulk assessments through several organisations (this provides a much greater value for money) eg Barnados, Assessments Australia
- Tender for a law firm to prepare the paperwork instead of the Crown Solicitors doing each application on an individual basis
- A panel of experts for use in the Childrens Court and the Supreme Court appointed. They would charge back to FACS /agencies for their services.
- Bulk submission for open adoption applications provided to the Supreme Court. You see each time a case goes to Supreme Court they re-invent the wheel, re-argue the same points re benefits of open adoption. Individual specialists attend and reattend.
- The Institute Management and Secretary/FACS Executive would be in discussion with Supreme Court from the beginning of this process to understand what if any further fundamental research they required.
It may be the NSW Government needs to support an additional Judge for 2 years to process these applications.
This has been achieved in other agencies who need to accomplish a peak of workload, for example RTA funding additional EPA officers to assist with Pacific Highway assessments.
- Actually achieve an outcome for children and families starting now.
It would be very exciting and worthwhile.
It would require clear, strong vision and management.

