Community Consultation – Notes

Following the release of the Issues Paper on Establishing an Institute of Open Adoption, the Department of Family and Community Services met with key stakeholders across the sector for their initial feedback. This included a range of accredited adoption service providers, philanthropic groups and community interest groups. The following provides a summary of the issues that were raised at these meetings.

Please refer to **Appendix A** for a list of the organisations that were consulted:

Meeting 1: Monday 13 July 2015

- **Scope**: The organisation is generally supportive of open adoption. It supports the decision to exclude Aboriginal and Torres Strait Islander children from the scope of the project. The organisation would need to consult with its partners, if the proposed model for the Institute moved away from this position.
- **Potential research topics:**
    - Business models being used by existing adoption service providers and their effectiveness. The lessons learnt from these models could help to build the capacity of smaller service providers wishing to take stronger role in adoption from OOHC
    - Differences in attitudes to adoption across foster carers and prospective adoptive parents
    - Investigating cases where permanency planning has not involved adoption, but foster carers have developed a positive relationship between the biological parents and the child
    - Post adoption support services (and avenues to address breakdowns in adoptive relationships)
- **Information sharing:** The organisation is supportive of the proposal to allow the Institute to access adoption records. It would be willing to provide the Institute with in-house data on the proviso that it is used solely for research purposes.
- **Training** The Institute should also consider the following areas of work:
    - Providing a training programs for contracted adoption assessors
    - Providing training in post adoption support for adoption applicants

Meeting 2: Tuesday 14 July 2015

- The Institute will focus on applied research that supports the work of frontline practitioners. The Institute has the potential to raise awareness about adoption through education and development of fact sheets.
- **Title of the Institute:** The terminology used around adoption is key. The title of the Institute should be reconsidered, with a stronger focus on permanency rather than 'open adoption'.
- **Limited capacity:** The organisation is conducting some research on adoption from out-of-home care. But it has limited resources to support the project. An independent Institute could help to reduce the burden on non government providers.
- **Potential areas of research:**
    - The practicalities of 'openness' including the need for openness between biological parents and foster carers, which would have flow-on effects on openness during adoption cases
    - Limited uptake of adoption among foster carers (differences between these cohorts and the dynamics between these groups).
    - Feelings, attitudes and consequences of the current model used for birth certificates.
    - Research on the adoption assessment process

- **Legislative change:** If it is required, FACS may seek legislative change that allows the Institute to access data held by service providers. This type of data can already be provided to researchers under the *Adoption Act 2000*. It is supportive of providing similar information to the Institute, subject to appropriate limitations on how this information is shared in the public domain.
- **Fostering networks across the sector:** It would be helpful if the Institute could build networks within the professional adoption sector and maintain a database of people with a role in adoption. This could be provided via dedicated phone line, similar to the Hadley Institute.

Meeting 3: Tuesday 14 July 2015
- **Negative impacts of adoption:** The organisation is mindful of the long term consequences of adoption on cultural identity and lineage. There are significant emotional consequences for families that have had a child removed.
- The Institute should work to ensure the sector is aware of the realities of adoption (including open adoption) for the parents, children, and adoptive parents
- **Support services:** There are few services available to support parents who have had children removed and opportunities should be available for them to address the grief and psychological consequences.
- **Potential areas of research:**
    - Barriers to openness in adoption cases, with reference to the fact that in practical terms openness between the biological and adoptive parents is difficult to achieve. This research should focus on the structural and systemic barriers within current adoption practice and look at what is happening and not just what is planned for the child
    - Impact of adoption on the biological families, including the need for post adoption support
    - Effects of removal on the children including the adequacy of post adoption support services, formation of new identities and breakdown in adoption placements
    - Impact on the change of birth certificates following an adoption order including the consequences on identity (and viability of integrating adoption information onto existing birth certificate)

Meeting 4: Monday 20 July 2015
- **Open adoption:** The Institute should be developed to conduct applied research on open adoption. Under the concept of 'openness', efforts should be made to ensure the child is aware of their birth parents. When appropriate, arrangements should be put in place to support openness between the child, birth parents and adoptive parents.
- **Scope of work:** The Institute should provide research on both pre and post adoption practices. It was noted that while international adoption is outside the remit of the NSW Government, the Institute should be able to address the needs of this cohort when living back in NSW through the work it undertakes on post adoption arrangements.
- **Lived experience**: It is important that people with lived experiences of adoption are able to influence the role of the Institute.
- **Potential areas of research:**
    - The nature of relationships between the biological and adoptive parents (and barriers to an open relationship)
    - Risk factors for post adoption breakdowns
    - Education and ongoing support for the adoptive parents and adopted child
    - The need for professionals that are trained in adoption and its impact on those involved

- o Intergenerational consequences of adoption (including the impacts on children and grandchildren)
- o Appropriate age to advise a child they have been adopted
- **Advocacy**: The Institute could advocate for change to adoption practices, based on its research findings For example, the impact of changing a child's birth certificate on the adoptive child and their identity formation.

Meeting 5: Monday 20 July 2015
- **The Institute's objective** could be to foster change within the professional sector (including FACS and NGO caseworkers), noting there is little resistance to open adoption within the wider community.
- To date, there has been very poor communication with foster carers on matters relating to open adoption. Some report having waited 6 or more years for paperwork to be processed.
- **Cultural change**: The allocation of $2.85 million is a relatively small amount of money to achieve the outcomes that are set out in the Issues Paper. It is a significant undertaking to shift the culture around adoption within a resistant organization (including the agencies, of which only a few have established adoption programs).
- In order to be comprehensive, this shift needs to also **target university curriculums for social work.**
- On top of the cultural shift, the paper describes the Institute as also trying to address **issues within the process to adopt,** the documentation and the obstacles including the current level of resourcing. The funding for the Institute may be better placed in simply boosting the number of staff within the FACS OOHC Adoption Team. Some have apparently over 100 cases.
- **Adoption Service Providers**: The research developed through the Institute could help to understand why the existing 70 out-of-home care providers are not applying for accreditation as adoption service providers. This research will help to identify barriers within the system, and develop options to improve outcomes in adoption.
- At present, there are several research bodies that are undertaking this type of work – but its not coordinated through a single point agreed.
- It is important that **foster parents and children that are and are not deemed suitable for adoption are consulted with**. Their experiences and the double jeopardy their children face should be used to inform the establishment of the Institute and the work it undertakes.
- **Expert reporting**: In Children's Court matters foster families (prospective adoptive parents) are highly unlikely to have the resources to engage the Institute for support with legal action. It was discussed whether these parents may be able to request the court to order the supply of an expert report from the Institute to clarify any issues around Open Adoption in Sec90 appeals/91/PR and Guardianship. For example if section 90 appeal is lodged, the magistrate or judge may take the option of ordering a care plan that expressly includes adoption. Under these circumstances, FACS would be usually be responsible for the cost of these reports.
- **Obligations of the NSW Government:** Consideration needs to be given to the question of whether the NSW Government should be required to formally respond to recommendations developed through the Institute. Its it simply a consultative arm or will it actually direct policy?
- **Communications**: It is important the Institute considers the needs of foster carers and that it connects with this community. Carers are often not consulted or provided with information. They can also be left with misinformation from caseworkers across FACS and agencies.
- **Governance:** It is proposed that the governing document should set out a number of specifications that the Institute is required to meet such as consideration of the needs of foster carers and prospective adoptive parents.

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Meeting 6: Tuesday 21 July 2015

- The overriding intent of the Institute should be to help ensure that adoption is considered as a permanency option for more children in out-of-home care.
- **Sector development:** There are a range of stakeholders in the adoption sector with varying needs. For example, the frontline caseworkers may need applied research to guide their case planning, the courts also need expert advice and support with decision making. The Institute needs to support the unique needs of each group in order to bolster the adoption sector as a whole.
- There are a number of ways that this could be achieved. One solution is to develop a proscriptive model for the governing body so that the needs of each cohort must be taken into consideration and supported.
- Alternatively, the governing body could be given some flexibility to determine the priority areas across the adoption sector and where its efforts might be best placed. A review mechanism could be instigated every three years to ensure the Institute is addressing the variety of needs across the adoption sector.
- It was noted that the Issues Paper is intentionally flexible on this matter, so that the sector can provide its input on the best way forward.
- **Scope of work:** In terms of pre-adoption, the Institute should focus on adoption as a permanency option for children in out-of-home care. The Institute may also look into post-adoption. The work undertaken in this area should be designed to benefit all children and families in NSW affected by adoption (including international adoption)
- **Partnerships:** There should be scope to develop linkages with organisations that research other permanency options such as kinship or guardianship. If the Institute has a role in developing expert reports to the courts, it would need to have a partisan view of adoption to be legitimate. In turn, it should be willing to consider other permanency options, to ensure the best interests of the child.
- **Research budget:** There may be opportunities for FACS to commission research from the Institute once it is established.
- **Tenderer applications:** Organisations that are interested in the tender should ideally propose a viable business model for the Institute taking into account funding streams from research grants and fee for service.
- The Institute is trying to take on a significant amount of work with limiting funding. **Advocacy:** In terms of advocacy, the Institute should not have a role in advocating in individual adoption cases. However, it may have a role in advocating for certain reforms to adoption practice based on its research.
- **Deductive Gift Recipient Status:** The Institute will require Deductive Gift Recipient status if it is to receive philanthropy. The objectives of the Institute will need to satisfy the requirements for DGR.
- **Information sharing:** It will be necessary to seek advice on the types of special powers that should be afforded to the Institute so that it can access personal information (including the need for legislative change, and restrictions on how information is used)
- There is some concern that the successful tenderer may lose their capacity to provide advice or advocate to the NSW Government, independently of the Institute. This might lead to some organisations not tendering.
- **Funding:** The Issues Paper has a significant scope of work, which will be difficult to achieve within the $2.85 million funding allocation.

Meeting 7: Thursday 23 July 2015

- **Openness:** Many prospective parents still have an expectation of closed adoption which has significant consequences on 'openness' as an adoption order is progressed. It is important to educate the public on the changed practices in adoption

- **University involvement:** A partnership with a university would ensure that research projects are subject to an ethics process. The rigour around academic research will help to address underlying biases in the Institutes focus and practices
- **Potential area of research**:
  - Understanding the main reasons why children are in out-of-home care
  - Support needs of birth parents
  - Different drivers for new families depending upon whether the child comes from out-of-home care, surrogacy or international adoption. Why do prospective parents prefer one option over the other?
  - What are the barriers for families to adopt from out-of-home care (e.g. availability of financial support) and the degree that these issues affect the uptake of adoption
  - Post adoption support for children that were previously in out-of-home care (and how best to address the trauma they have experienced)
  - Testing the rationale and logic around 'open adoption'
  - Impact of social media on 'openness' and contact between birth parents and adopted children
  - Longitudinal studies on the impact on all parties of contact between the birth parents, adoptive parents and adopted child
    - How contact was managed between these parties?
    - Post adoption supports required to facilitate contact
    - Factors that contribute to successful contact
    - Degree of contact that is beneficial for the child and birth parents
  - Developmental phases that affect identity formation (including the intergenerational consequences of adoption)
  - The perspectives of adopted adolescents
- **Alternatives to longitudinal studies:** While longitudinal studies have obvious benefits, they also require significant funding to sustain, and will not yield immediate results. Alternatively, it could be useful to launch a study on children and parents that have been in placement for 5 years.
- **Funding limitations:** The Institute has a large remit, that will be difficult to achieve with the available funds and its time-limited nature
- **Governance**: The governance arrangements for the Institute should consider all of the following:
  - Membership of the Board should represent various interests in adoption (including representation of all parties relevant and post adoption services)
  - The mandate for the Institute should set out a number of focus areas that should be taken into consideration when it undertakes research
  - The need for independence and impartiality
- **Information sharing:** This should be permissible provided that no one can be identified.
- **Clearinghouse**: One of the initial priorities for the Institute should be to collate the existing local research on adoption and use this as a framework to identify research gaps.
- Expert evidence in individual matter: The attendees felt this would become all the Institute does and would move it away from its impartiality. The attendees suggested the Institute could provide research and data as required to assist others in decision making.

Meeting 8: Thursday 23 July 2015
- **Trauma:** A recurring theme for many people is the trauma associated with identity loss
- **Permanent care orders:** There is support for an open and transparent model for out-of-home care, where the children have access to information on their family and

histories. There should be a system of well-supported permanent care for children and young people, rather than adoption.

- **Birth certificates:** In cases were adoption does take place, both adoptive and biological parents should be acknowledged on the birth certificate and the child's name should not be changed.
- **Best interests of the child**: It is important that the Institute is independent of the NSW Government with the capacity to provide impartial advice. It's objective should be to ensure the best interests of the child, above the desires of prospective adoptive parents.
- **Cultural appropriateness**: There is no reason why adoption should not be culturally appropriate for Aboriginal children but questions of heritage and cultural identity are not taken into account for other children.
- **Partnership:** Ideally, the Institute would be established as a partnership between two organisations one of which to be a university, to build its reputation as a reputable source of advice, and ensure its activity isn't biased towards adoption-interest groups
- The Institute should have the capacity to provide training and develop services that support contact between biological and adoptive parents.
- **Potential areas of research**:
  o Impact of past adoption on adult adoptees
  o The practicalities of 'openness' in cases where a child is adopted from out-of-home care including strategies to address breakdowns in adoption placements and managing contact between the biological parents and adoptive parents can be difficult.
  o Comparison of outcomes from adoption and long term permanent care (including outcomes in health, education and quality of home life). This research would support caseworkers when trying to decide between these permanency options in a permanency plan
- In order to meet its objectives, the Institute's work should be restricted to research and training

Meeting 9 - Friday 24 August 2015
- **Funding:** The Institute is being asked to bring about significant change with very little funding.
- The roles and responsibilities of academic staff and frontline practitioners within the Institute should be clear at the outset.
- **Information sharing**: This requires more thought, including the option that FACS provides de-identified adoption data to the Institute - noting that this may be resource intensive process. Alternatively, legislative change may be required, which could take up to 12 months to finalise. The attendees did not foresee that legislative change would be a popular option.
- The scope of the Institute's work will require some input from the sector, including advice on whether it is too narrow or broad to achieve its objectives.
- **Available research:** Most research in the area of adoption is international. Although it is still insightful, it is not always transferable to the Australian setting.
- **Advocacy:** it was noted that while the Institute did not have an advocacy role in individual cases it might be able to advocate for systemic changes based on the outcomes of its research (eg. impact of changes to birth certificates on identity formation)
- **Sound reputation:** The Institute will need to avoid any perceived or actual 'conflicts of interest' to maintain its reputation as a reputable source of advice
- **Title:** The name 'Institute of Open Adoption' may affect how it is perceived in the sector. There is a risk it will be seen to be biased towards adoption, at the exclusion of other permanency options that are in the best interests of the child.

Meeting 10 – Friday 24 July 2015

- The attendees welcomed the NSW Governments commitment to establish an Institute of Open Adoption
- **Scope:** It is unlikely that the work of the Institute will be so specific at the outset to require legislative change around information sharing. As a priority, the Institute should focus on issues that enable early consideration of adoption. It also needs to build the number of experts working in adoption and out-of-home care.
- **Community attitudes:** The wider community is generally supportive of adoption as a means to provide a permanent and safe home for children. The Institute will need to focus on caseworkers, lawyers and other practitioners to foster change in the sector. In particular, the courts need reliable research to support decision making in cases before the Children's Court and Supreme Court.
- **Reputation:** It is essential that the Institute is independent. It requires the gravitas of a university to build its reputation as a credible source of expertise.
- **Research:** Experiential research methods will complement an action research approach and as such constitute an important immediate priority for the Institute on establishment
- Practitioners with extensive practice experience of open adoption must be included in all research discussions and proposed Institute activities, in addition to children and families directly impacted by open adoption
- **Structure:** The following issues should be considered when designing the Institute:
    - There should be a clear relationship with practitioners throughout its structure (to ensure it does not adopt a sole-research focus)
        - The Board should have a balance of external stakeholders and practitioners with frontline expertise.
        - There should be a balance of practitioners and research staff working at the Institute
- The Institute will benefit from a Board structure which enables nomination of a high profile Patron with personal commitment to the open adoption agenda
- **Flexibility:** The Institute should be flexible enough to allow partnerships with other organisations as the need arises (i.e. discrete partnerships with other universities, researchers, service providers)
- **Clearinghouse:** The Institute needs the capacity to collate and store existing research
- **Access to information:** The Institute needs access to a broader range of information than the case files of adopted children. It requires access to caseworkers so it can better understand the decision-making process around adoption and other permanency options.
- **Funding:** Training courses are not a good way to raise revenue for an Institute of this kind.
- The successful tenderer should be able to demonstrate it has the capacity to raise its own funds, and is viable beyond the first three years of seed funding
- If the Institute is established as a statutory body, it may limit its capacity to raise funds.
- **Potential areas of research:** The research agenda should be broadened to include the expanded range of associated areas of knowledge establishment in relation to children in recent times, specifically including areas such as educational development responses in early childhood, child development in general, child attachment, and identity issues – all of which have relevance to the impact of adoption practices

Meeting 11: Monday 27 July 2015

- **Education and Training:** The Institute would benefit from being embedded into a university structure. This would help to ensure its research is subject to the scrutiny of an ethics committee. It would also allow the Institute to develop academic courses on adoption that feed into undergraduate and postgraduate degrees. The resources and training provided through these courses will have a long term impact on the sector as students enter the workforce.

- **Partnership** A partnership between a university and non-government organisation would be a stable option for the type of Institute being proposed.
- It is important that people with a broad range of expertise are included in the Institute's work (including developmental psychologists as well as social policy practitioners)
- **Governance:** The Institute requires some kind of advisory board to oversee its activities. The members of the Board should include a combination of practitioners, legal professionals
- **Clearinghouse:** The Institute should also act as a clearinghouse of existing research on adoption and out-of-home care. (as it relates to permanency planning). The clearinghouse would be a valuable resource for those working in the area. There are very few academics working in the area of adoption and/or adoption from out-of-home care. However, there is research being undertaken in other fields that may have relevance to adoption (even if it doesn't appear to on the surface).
- **Funding:** The Institute may be able to access research funding through the Australian Research Council and the National Health and Medical Research Council. This may help to bolster the work of the Institute, but it is unlikely to be stable source of funding. In recent years, only a small portion of funds have been allocated to support applied research. There is significant demand for this type of funding.
- **Scope:** While the Issues Paper is clear that that adoption is not the preferred option for Aboriginal and Torres Strait Islander children in out-of-home care and that the Institute will not be set up to cater for this category of adoptions, however, there may still be opportunities to develop research in the area (in line with the provisions in the *Care Act 1998* and the *Adoption Act 2000*).
- Although the Institute will focus on adoption matters in NSW, it could still conduct applied research in other jurisdictions, if the outcomes were seen to benefit children in NSW.

Meeting 12 – Monday 27 July 2015
- There are a range of OOHC providers that do not have a role in adoption. There is now a legal requirement for these providers to think more broadly about permanency options for the children in their care.
- Independence is important fir the Institute. However, it is equally important it remains connected with the adoption sector and responsive to emerging issues.
- **Financial viability:** The finances available to the Institute are a concern. The Issues Paper explores a number of options to bolster the funding available to the Institute, so that it is viable in the long –term. The other streams of work that are being proposed, including the fee for service and training courses, detract from the focus of the Institute to develop applied research that fosters change in the sector.
- **Shortage of experts:** The attendees acknowledged a shortage of skilled professionals with expertise in adoption from out-of-home care that can reach out into the regions.
- **Existing backlog in adoption cases:** The existing backlog in adoption cases has a practical impact on adoption practices and the capacity of caseworkers. For example, it can take up to 4 years for an adoption order to be finalised. Over the course of this time, the child's circumstances may have changed, and their case needs to be reviewed and updated.
- **Structure:** The Institute should have two streams of work:
  - 1x research program
  - 1x practitioner program
- **Independence:** The best interests of the child must be the focus of the Institutes work. Its work should not be driven by the interests of prospective adoptive parents, adoption-interests groups or adult adoptees. It must also be impartial and competent, with a sound reputation in the sector.
- A potential areas of research concerns blockages and barriers within the adoption process (including differences in timeframes with other countries)

- More thought is needed around the extent that adoption among Aboriginal and Torres Strait Islander children should be represented in the Institute's work and whether they are being excluded from benefits available to other children.
- **Information sharing:** Basic adoption data should be available to the Institute (including the number of children being adopted, demographics, impediments to adoption and successful reasons for withdrawing from adoption proceedings).
- There are some concerns about allowing an independent Institute to collect data from agencies, without consultation on what is being researched or studied.
- The Institute's research should be driven by the needs of agencies working in the sector (and what they need to know to improve their practices)
- **Potential area of research:**
  - More agencies are likely to take an interest in adoption from out-of-home care. What resources are needed to get them up to speed?
  - Duplication of effort across the adoption process
  - Are adoption plans adhered to after an Adoption Order is approved?
  - Continuity of openness when a child transitions from foster care to OOHC adoption?

Meeting 13 - 28 July 2015
- It would be useful if FACS developed a fact sheet on how the Institute might affect the work of non-government organisations.

Appendix A: List of Organisations that were consulted on the Issues Paper

Adopt Change
Adopt Compassion for Us
Anglicare
Australian Catholic University
Association of Children Welfare Agencies
Barnardos Australia
CatholicCare
Children's Court
Children's Court Clinic
Children's Guardian
Dr Jeremy Sammut
Macquarie University
Office for the Advocate of Children and Young People
Origins NSW
Standing for Foster Carers and Adoption
Supreme Court
The Benevolent Society – Post Adoption Resource Centre
Uniting Care Burnside
University of Sydney
University of New South Wales
University of Wollongong
University of New England