

BREAKING THE ADOPTION TABOO IN AUSTRALIA

More Australian parents should have the chance to adopt and more Australian children the chance to be adopted.

Over the six years that I have researched the child protection crisis in Australia, a noticeable change in the policy debate has occurred: discussing ‘open’ adoption and its benefits for children has become less controversial. What was once a taboo subject is clearly gaining greater acceptance. Support for adoption has gradually emerged in response to mounting concerns about the parlous state of child protection in Australia. That support has been driven by the evidence-based debate concerning the systemic flaws in state and territory child protection systems – a debate that has been led by the CIS’s child protection research program.

Greater use of adoption is central to achieving meaningful child protection reform: instead of tens-of-thousands of children languishing in long-term and often highly-unstable foster and other forms of ‘out-of-home care’ placements, adoption will enable children who will never be able to live safely with their highly dysfunctional natural families to find a safe and permanent adoptive family for life. Greater awareness that current practice of ‘family preservation’ at almost all costs is bad for children, and that what is being done in the name of avoiding past mistakes associated with Stolen Generations and Forced Adoptions has proved harmful and damaging, has stimulated the beginnings of a cultural shift in attitudes towards the principle and practice of ‘adoption from care’.

Adoption an option

One measure of significant progress, and of the impact of sustained criticism of the child protection

status quo, is that adoption has begun to feature in the recommendations of official inquiries.

Having recognised the large number of children “drifting” in and out of care, the 2013 Queensland Child Protection Commission of Inquiry suggested that rather than “unrealistically” pursuing reunification at all costs, child protection caseworkers should be directed to “routinely consider and pursue adoption”, especially for younger children, when the family circumstances suggest the chances of successful reunification are slim. Similarly, the 2011 Protecting Victoria’s Vulnerable Children Inquiry recommended that barriers to adoption of children from out-of-home care should be identified and eliminated.

The chief judge of the Federal Circuit Court, John Pascoe, and the chief justice of the Family Court, Diana Bryant, have both also expressed support for greater use of adoption for some children in care. “Let’s have a look at adoption because there are so many children in care”, Chief Judge Pascoe told



Jeremy Sammut is a Research Fellow at The Centre for Independent Studies and authored six research reports on the Australian Child Protection Crisis between 2009 and 2014. This is an edited extract from his book, *The Madness of Australian Child Protection: Why Adoption Will Rescue Australia's Underclass Children* which was published by Connor Court in November last year.

The Australian in August 2014. “Maybe some of them could be adopted and would be better off being adopted.” Chief Justice Bryant contrasted the local situation with the UK:

We’ve taken the view in Australia that adoption of children who have parents is a last resort and that children remaining in care is preferable. In the UK, they’ve had a very different approach and with the courts’ permission they’ve allowed adoptions against the objections of parents, where children have been in care for some time. They’re starting to change their view a bit and perhaps we’ve been too far at the other end of the spectrum.

The first national commissioner for children was appointed to the Australian Human Rights Commission in 2013. Since her appointment, Megan Mitchell has generally stuck to the orthodox pro-family preservation position, proclaiming that the “national shame” that is the number of children in care indicates “we’re not doing enough, early enough” to help dysfunctional families. But recently, the commissioner has supplemented her calls for more of the same failed approach, suggesting that “on the other hand we need to look at how we might be able to place more children in permanent alternatives like adoption or long-term guardianship with another family.” Ms Mitchell has argued that when adoption is “clearly in a child’s best interest ... we should be trying to pursue it”, because:

Unfortunately in Australia we’ve had a bit of a history of long-term foster care and that really isn’t an ideal situation ... by moving about that system and not having that stable long-term care arrangement they [children] are more subject to abuse and neglect and other forms of damage that can occur for them ... For children to live a normal life they need to stay with the same family, form strong attachments and bonds with that family, be able to stay at the same school, form friendship groups, go to the local recreational and sporting

clubs. These are the things that provide stability and belonging in a child’s life.

The Tipping Point: Chloe Valentine

A tipping point in the debate about child protection policy was reached with the release in April 2015 of the scathing report of the inquest into the death of Chloe Valentine.

South Australian coroner Mark Johns found the way Families SA had taken the “path of least resistance” proved the state’s child protection system was “broken and fundamentally flawed”. The coroner’s report broke the usual mould of official inquiries because in calling for “nothing less than a massive overhaul of Families SA”, Mr Johns recommended changes that went far beyond reinventing the existing failed family preservation-based approach. Zeroing in on the department’s “culture and training of its staff” and the need for fundamental change, the coroner recommended that “adoption should have a place in the alternative placement options in the child protection system.”

Child protection agencies are preoccupied with family preservation as the primary goal.

The significance of the coroner’s report and recommendations with regard to shattering the adoption taboo cannot be exaggerated. Citing extensively from my research, the coroner noted that the “criticisms of the child protection system in Australia” that had been detailed “were borne out by the evidence” and “resonates very strongly when one considers the history of Chloe Valentine”. This led Johns to “the very firm opinion that permanent removal to adoptive parents should have a place in the child protection system”. The systemic flaws identified in my work and borne out by the evidence in the Chloe Valentine case included:

- child protection agencies are preoccupied with family preservation as the primary goal and fail to take appropriate action to protect vulnerable children with well-founded and ongoing safety concerns

- troubled parents receive a range of support services and virtually limitless opportunities to address their problems, with child removal only occurring as a last resort
- too many children are left in dangerous situations due to the current emphasis on family preservation and the misguided bias towards keeping demonstrably abusive and neglectful families together
- the pendulum has swung too far in favour of protecting the “rights” of dysfunctional biological parents at the expense of the best interests of children
- child protection is plagued by a permissive culture of tolerating parental drug abuse and downplaying the attendant risks to drug abusers’ children

Adoption is a taboo subject in the child protection world.

- proposals to invest more time and effort into family support services ignore the damage done to children by the relentless pursuit of efforts to support families
- adoption is a taboo subject in the child protection world and child protection agencies have a culture of resistance to adoption

While the coroner was adamant that adoption should play a greatly expanded role in child protection, he did “not purport to be in [a] position to offer a settled model of what the role of adoption in the child protection system should look like.” However, guidance for other jurisdictions on a suitable model for adoption from care has been provided by the real policy breakthrough that has occurred in NSW.

The NSW Model

In 2013, NSW policymakers had embraced the word “adoption” and the language of permanency, stability and belonging in a “home for life.” The Coalition government under the leadership of

former premier Barry O’Farrell legislated a sweeping reform program designed to address the systemic problems plaguing the child protection system, significantly reducing the number of children languishing in care by significantly increasing the number of children who are adopted. This chiefly involved implementing important changes to child protection laws, policy, and practice. The changes were carefully designed to ensure adoption is a viable and well-used pathway to securing a permanent alternative family for children who have little prospect of being able to live safely with their birth parents. New rules were laid down regarding timely, realistic decision-making about permanency for children in care.

Under the new permanency planning regime, it is mandatory for a decision to be made about whether restoration to the parents is feasible within six months of entering care for children under two years of age and within 12 months of entering care for children aged two years and older. Once it is determined a child cannot safely go home, an application is to be made in the Supreme Court for an order to legally free them for open adoption by a new family.

Similar to the NSW reforms, new laws passed the Victorian parliament in September 2014, introducing “permanent care orders” and centred around enforcing timely and realistic decision-making to achieve stability for children. Another main feature of this legislation is strict timelines. Parents will have an initial 12 months to resolve issues so they can resume care of their child. At the end of this period, an additional 12 months will be provided if reunification is likely to be achieved in the 12 months, or permanent alternative care will be sought. Permanent carers become the legal parents of children who remain in care until adulthood, as a means of limiting further disruptions by either parents or the department.

This is designed to swing the pendulum back from family preservation by curtailing parental rights to the extent that children are all but adopted, except in name. Nevertheless, the Victorian reforms took the line of least resistance with regards to achieving greater permanency for children, and dodged the politically and culturally contentious issues around

adoption despite its demonstrated benefits for children compared to long-term foster care.

Political leadership

Despite positive policy developments and shifts in attitudes, the Victorian government's reluctance to embrace adoption indicates we still have a long way to go to make it the norm when it is unrealistic for children to go home. There is a role for national leadership by the federal government in overcoming these obstacles and the lack of effective policy response in most jurisdictions to the ever-worsening child protection crisis.

The gross disparity between the high number of children in care in Australia (more than 43,000 children in 2013-14) and the low number of local adoptions (a mere 89 adoptions from care nationally in 2013-14) has led to child protection gaining overdue attention from the federal government. In December 2013, the Abbott government announced it would take action to make it easier for Australian parents to adopt children locally and from overseas. Acknowledging the taboo that exists on adoption, Prime Minister Tony Abbott announced his government was committed to taking adoption out of the "too-hard basket" and streamlining the adoption process. A new service, Intercountry Adoption Australia, was announced in January 2015, and is intended to remove red tape and help parents negotiate the adoption process with foreign governments. Action on overseas adoptions was rightfully acknowledged as a brave move into what had formerly been a policy no-go zone for federal governments, and occurred in the face of warnings by anti-adoption advocates about the dangers of removing children from their cultures.

Yet action on overseas adoption contrasts with no movement by the federal government on local adoption, which appears to have remained firmly in the politically too-hard basket. The difference with overseas adoption may be partly due to the effective advocacy of the overseas adoption cause. This cause has been championed by the Adopt Change organisation (formerly National Adoption Awareness Week), led by the high-profile pro-adoption campaigner, actor Deborra-Lee Furness. The successful advocacy for overseas adoptions

offers proof that politicians prefer to lead on the contentious issue of adoption when public opinion has been shaped by others and they believe the community is prepared to support a pro-adoption policy direction.

Michael Gove and the UK experience

Despite the significant cultural and political obstacles to breaking the adoption taboo, change is possible with the right political commitment and leadership. This is the lesson of recent events in the UK, which have led to a significant increase in adoptions from care. Under the Cameron government, adoption has been embraced as one important means of dealing with Britain's "broken society" and addressing the squalor, violence, chaos, and dysfunction that characterises the worst underclass families.

Action on overseas adoption contrasts with no movement by the federal government on local adoption.

In the four years since 2010, the number of adoptions from care in England has increased by 58%. In the year to the end of March 2014, 5,050 adoptions had been completed, the highest level on record. The rising number of adoptions is attributable to the Adoption Action Plan implemented by the Cameron government, which aimed to remove the red tape and other barriers preventing the local council authorities responsible for child protection services from achieving more, and more timely, adoptions. The adoption reforms and their impact have been a triumph for their architect and champion, former education secretary Michael Gove, who successfully took up the political and cultural challenge of reframing the public debate about adoption.

In a number of speeches and newspaper articles, Gove cogently and passionately marshalled the evidence that refuted the orthodox "preoccupation with rights of biological parents", which he argued exposed children to "appalling neglect and criminal mistreatment". On the back of a spate of horrific deaths of known children and various reports and inquiries into the failures of child protection

services, Gove argued the real problem with the child protection system was not that too many children were in care, but that “far too many children [are] spending too long in homes where they are not receiving the care they need.” Citing the “strong evidence that, in recent years, there has been too much reluctance to remove a child from circumstances of consistent and outright abuse and neglect”, Gove asserted that the poor outcomes achieved by children in care who failed in school, became unemployed, ended up in prison, and suffered mental illness, were not due to having been removed from their families, as was the common claim, but “were a consequence of what had happened to them before they were taken into care.”

Achieving the goal of providing more children with safe and permanent homes meant there must be more adoptions.

While understanding why social workers might wish to do everything to keep families together, Gove demanded that “optimism bias” and “the hope that things will improve” be set aside, and be replaced by the “instincts to intervene and rescue”. Recognising “just how much damage is done to a child every day it spends in a home where there is no security, safety and certainty of affection”, Gove insisted that “for some of the most vulnerable children, the sooner they are taken into care, the better.” Citing the evidence that showed “maltreated children who remained in care did better than those who were sent home to their families”, Gove argued the vicious cycle of instability and repeat abuse and neglect must stop by making sure fast and decisive intervention occurred to ensure children are “removed to a place of greater safety.”

Recognising that sometimes this would be mean long-term fostering, Gove also cited the evidence that showed adoptions were most likely to last and had less disruption than foster placements. He insisted that achieving the goal of providing more children with safe and permanent homes meant there must be more adoptions “because adoption provides what abused and neglected children need most – stability, certainty, security, love.” Attacking

the “wrong values” of the current system, Gove, despite his awareness of the sensitivities, pulled no punches in his advocacy for adoption:

I know there will be some who will accuse us of baby-snatching. But when you read, as I have, of what the amoral residents of the most broken parts of Britain do to their children then no one with a conscience would want us to do anything other than snatch these innocents away from this suffering.

To reverse the 17% decline in adoptions that had occurred over the previous decade, and which had led to the lowest number of children adopted in England in 2011 since 2001, the Cameron government, under Gove’s direction, introduced a range of new initiatives. To address significant regional variations in rates of adoption from care, national performance tables were published to encourage best practice across all local authorities and speed up the adoption process. The average time between a child entering care and being adopted was found to be two and half years, a lag attributed to administrative inertia linked to bloated and unnecessarily complex assessment processes. New, streamlined assessment guidelines issued to local authorities in 2011 targeted the way social workers ideological hostility to adoption was expressed through “ridiculous” bureaucratic hurdles involving lengthy form-filling-out requirements, which allowed a plethora of reasons to be found to reject potential adoptive parents. The new rules prevented local authorities from rejecting applications to adopt based on trivial and irrelevant “tick-box” factors, such as smoking or being overweight, or the number of pets in the home, which were unlikely to compromise capacity to be a loving parent.

The revised assessment criteria also prohibited potential adopters from being turned away due to race or social background. Previously, adoptions could be either delayed or prevented by an unrealistic quest, which Gove described as “politically correct”, to match children with the “perfect family” that matched their racial, religious, class, cultural, and linguistic backgrounds. Concerns about the potentially negative psychological effects of

separation from birth families and cultural heritage on identity and sense of self had led to black children waiting 50% longer to be adopted than children from other ethnic groups, and to a black child being three times less likely to be adopted than a white child.

Gove's personal circumstances made him uniquely placed to address this most controversial aspect of the adoption question. Born to an unwed mother in 1967, he had entered care and was adopted aged four months. His parents had also adopted his sister as a baby, who was then found to be profoundly deaf. He admitted that his own experience of being "given the stability, security, and love which allowed me to enjoy limitless opportunities", naturally coloured his attitudes to adoption. But this also gave him the authority to powerfully address the identity issue. While he recognised that an "ethnic match between adopters and child can be a bonus", his view remained that it was "outrageous to deny a child the chance of adoption because of a misguided belief that race is more important than any other factor." This view was not only founded on the injustice of denying vulnerable children the benefits of a safe and permanent family for life. It was also informed by his acute awareness of the "amazing opportunities" adoption had given him and his sister, which had transformed their lives and had transcended "carrying a legacy of pain, loss and uncertainty into adult life", even though his father and mother "had nothing in common with the woman who gave birth to me".

Hope for Change

The most significant symbol of how central adoption has become to the debate about child protection in Britain is the support and backing Gove's reforms have received from the prime minister. In a major speech delivered in August 2014, which outlined the government's approach to a variety of aspects of family policy, David Cameron reaffirmed the government's commitment to "help more children

in care find a loving family through adoption." Highlighting the way Gove's new rules, including the sweeping away of "ridiculous" restrictions on "placing black children with white families", had led to "staggering" increases in the number and speed of adoptions, the prime minister declared that "we're not stopping there". Expressing his determination "to do everything we can to unleash this adoption revolution in our country" and ensure more children found a loving family, especially disabled and other "hard to adopt" children, Cameron announced the creation of "a new national Adoption Support Fund" to pay for remedial and other services for children with special needs. The aim was to reassure adoptive parents that they could "count on good support – not just in the early days, but years down the line if needed."

The UK experience suggests it is feasible for politicians, to successfully advance a pro-adoption reform agenda.

The success of what Gove called his "crusade" shows the greater use of adoption from care can be made a major political and policy issue. The UK experience suggests it is feasible for politicians, with the facts at hand and the right arguments in mind, to successfully advance a pro-adoption reform agenda and not be dissuaded by cultural sensitivities from taking up and staying on that course. It also suggests well-designed reforms that target real problems and obstacles in the system can achieve significant improvements in adoption rates.

In Australia, we await the arrival of a prime minister willing and able to speak of their determination to unleash the adoption revolution, who takes credit for staggering increases in adoptions, and who takes responsibility for children being adopted on a colour-blind basis. That day must come if more Australian parents are to have the chance to adopt and more Australian children are to have the chance to be adopted.