Malatest International

Final report:

Adoption Law Reform – a synthesis of focus group findings

August 2022

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Acknowledgements

> *The trauma of adoption is a filter. It slowly allows the fine kind of granules of who we are, our authentic selves, to pass through. And hopefully they pass through in the form of wisdom. This process can take decades or a lifetime and it is informed by events, such as when we lose someone close, when we watch someone we love die, when we give birth to our own children, when we bury them, when we experience deep love, joy and loss. And importantly, if we are willing to bear the pain of remembering, we learn and grow and reform our adoption narrative. You're looking at the future, but humans haven't changed beyond the need to belong...everyone has this deep, deep longing to belong...We see what harm happens when we don't find that belonging. (F7 – adopted person)*

Executive summary

Background

The government is committed to the reform of Aotearoa New Zealand's adoption laws. The Ministry of Justice (MoJ) lead two rounds of public and targeted engagement to understand people's views on the options the government is considering for a new adoption system.

- The first round of engagement was held between June and December 2021, to gather feedback on the Ministry's discussion document *Adoption in Aotearoa New Zealand*.

- A second round of engagement was carried out from mid-June – early August 2022. The aim of the second round of engagement was to report back on feedback and seek the public's views on reform options the government is considering. A second discussion document setting out the reform options was released on the Ministry's adoption webpage the week beginning 20 June 2022.

In June 2022, MoJ commissioned Malatest International for the second round of engagement to design, organise, deliver and report back on seven focus groups with people with adoption experiences.

Adoption law reform focus groups

Four online and three in-person focus groups (in Auckland, Wellington and Christchurch) were held between 27 June and 4 August 2022 with a total of 51 participants (adopted people, adoptive parents, birth and adoptive family and whānau) located across Aotearoa New Zealand and overseas.

Participants' views about the package of options for adoption law reform

Purpose of adoption: All participants agreed that the purpose of adoption should prioritise the child. Many also noted that adoption law should:

- Acknowledge that the adopted child will evolve into an adult with a changed sense of self, worldview and life experiences

- Recognise that provision of a loving family relationship cannot be guaranteed, evidenced or monitored.

Principles for adoption: All participants commonly agreed with the principles for adoption but noted the principle of last resort was missing, and a te Tiriti principle

for adoption was needed. The principle of openness and transparency was considered important for all involved in the adoption process – including government agencies.

Who can be adopted? Some participants noted the age a child can be adopted should align with the Hague Convention (18 years) – consideration of children with neurodiverse and intellectual disabilities was noted.

Who can adopt? Most participants agreed with the options proposed and all agreed that people should not be prevented from adopting because of their sex or relationship status. Some participants also higlighted a need for adoption law to explicitly prioritise keeping siblings together, and disagreed that step-parents should be allowed to adopt.

Participants provided mixed views about whether the law should assume that it is normally in a child's best interests to be adopted by people from the same culture noting limitations with the principle of 'matching for marginality', and a need to consider children with multiple ethnic identities. Some participants placed equal importance on profiling and assessment of adoptive parent eligibility to provide a stable home.

What happens if a child is placed for adoption? All participants agreed that having a social worker represent and support the child throughout the adoption process was necessary. Some participants also noted it was also critical that adoption law remain high-level to allow flexibility within future policy and regulatory contexts, and identify at which point in the adoption process a social worker is appointed to represent a child. Matching a social worker to a child's cultural background, in light of limited workforce capability and capacity within Oranga Tamariki was considered *magical thinking*. Participants emphasised a need to allocate adoption specialist social workers, and ensure the child has the right to refuse a social worker if their relationship is not working.

Who can have a say? All participants agreed that the child should have a voice and a social worker and lawyer appointed to represent their views. Many noted that babies and young children will require multiple support people to represent their voice at different ages and developmental stages.

Many participants also agreed that child consent to the adoption should not be required and noted that birth parents' agreement to adoption does not represent child consent; adoption minimises the choices children can make as adults; inviting children of an appropriate age to consent to their own adoption can help to minimise the risk of their wishes being overwritten.

Many participants agreed that both birth parents should consent to their child's adoption unless it caused unwarranted distress. It was also important that adoption

law clarify that a social worker can recommend child placement sooner than 30 days and acknowledge the voice and role of adoptive parents.

All participants agreed that the wider family and whānau should at least have knowledge that the child exists and an opportunity to be part of decision-making. A requirement for MoJ to work with iwi and consider tribal advocacy as part of the adoption journey for tamariki Māori was highlighted.

Who makes the decisions? Many participants commonly agreed with the role of government, courts and accredited bodies and provided mixed views about whether adoption law should explicitly name government agencies, their role and purpose. Participants agreed that all adoptive applicants should be required to engage with Oranga Tamariki and highlighted the importance of ensuring adequate workforce capacity and resources were in place. A requirement for adoption support and government oversight over the life-long journey of adoption was recommended.

How are adoption decisions made? The suitability of adoptive parents was noted as requiring the involvement of several specialists working with a social worker. Participants highlighted a need for adoption law to remain high level and allow flexibility within policy and regulatory contexts about details to be included in a social worker report; mandate the establishment of a lived experience panel to review social worker reports and assessment of lifelong decisions made on behalf of the child; commit and ring-fence funds for cultural, psychiatric and psychological assessments, reports and workforce capacity/capability.

What is the legal effect of adoption? Participants agreed that guardianship responsibilities should be transferred from birth to adoptive parents and emphasised that adequate education and support would be required to ensure clear and shared understandings for birth and adoptive parents.

Many participants provided mixed views about the option for adopted people to have two birth certificates. Some participants agreed and saw that this aligned well with inheriting citizenship from birth and adoptive parents.Others supported a move to a digital model such as that proposed by Birth, Deaths and Marriages (BDM) and the provision of one birth certificate with bespoke information identified by and for adopted people.

Some participants also noted a need for adoption law to reinforce a moral right for adopted people to inherit property from their birth parents, and ensure the protection of an adopted child in the event of adoptive parent's death.

Mixed views were provided about the options for changing an adopted person's surname. Some participants did not agree that a judge and/or adoptive parents should have the right to change a child's name. A robust process and application to the family court was noted as a necessary requirement for any name change to

occur. A small number of participants did agree that a judge could consider changing a person's name for safety purposes only – and with input from adopted parents.

What ongoing contact can adopted children and their birth parents have? Almost all participants agreed that post-adoption contact agreements should be introduced, and noted a need for adoption law to acknowledge that contact agreements will change and require review at different ages and developmental stages (including the voice of the child at an appropriate age in any review was recommended); ensure adequate support is in place for birth and adoptive parents to develop meaningful and realistic contact agreements; consider multiple contact agreements with birth siblings and wider whānau.

Most adopted people noted that birth and adoptive parents should not be able to opt out of a contact agreement. Adopted parents provided mixed views about whether an agreement should be enforced.

Some participants agreed that culture plans should be required, but that it was also necessary for adoption law to consider how this could be applied for children with multiple ethnicities. Culture plans were considered necessary at the start of the adoption process rather than post-adoption.

What support can people access? Overall, most participants noted that current opportunities for adoption support are fragmented and inadequate, and adoption law should strengthen these for:

- Adopted people and their family and whānau – there is a need for equitable and increased access and choice to specialist non-pathologising support for adopted people and their family and whānau throughout an adoption journey; a current directory of registered, qualified, adoption and trauma-informed specialists (with an understanding of the severity of harm and trauma inflicted by the 1955 Act); a government commitment to developing specialist workforce capacity and capability.
- Adoptive parents – there is a need for mandatory counselling and education as part of the adoption process, and opportunities for a peer support network and engagement.
- Birth parents – there is a need for mandatory counselling and education before any decision is made to place a child up for adoption.

Participants acknowledged a need for education about adoption and it's impacts for all support services and workforces that engage in the adoption space (health, social services, education etc), prospective adoptive parents and birth parents, and the general Aotearoa New Zealand public.

Who can access adoption information and when? All participants agreed that access to adoption information for adopted people was a basic human right and

accessibility should be made faster and easier for all adopted people resident in Aotearoa New Zealand and overseas. Adoption law should ensure a simple and easy process is in place to access information and that all government departments have a clear understanding; information should be available from birth, information should not be redacted and access should be free. Participants noted a need to specify that adoption information is inclusive of all health, court and other departmental files.

Most participants agreed vetoes should be removed, and that the only veto to exist should be if an adopted person chooses to veto their records

What if things go wrong? Participants considered discharging an adoption order as a significant responsibility for 16–17-year-olds and recommended an increase in age up to 25 years. Participants also considered that discharging an adoption order should not be an option for adopted parents without requirement of adequate support and processes.

What happens in overseas and intercountry adoptions? Participants noted a need for adoption law to include the same considerations as domestic adoptions, reconsider, review and refine the Hague Convention process, specify that robust family court processes are needed to assess adoptions formalised overseas, and require and enforce a pre- and post-adoption culture plan from the country of birth and Aotearoa New Zealand.

Participants' views about further options for adoption law reform that should be considered

All participants commonly highlighted additional contextual factors perceived to be of significant relevance to adoption law reform and noted a need to:

- Consider alternative care options
- Use relevant, strengths-based and non-discriminatory language
- Recognise different child development ages and stages
- Prioritise issues of importance that are identified by adopted people
- Establish adequate and standardised data collection and monitoring processes
- Commit to adoption law reform and Royal Commission recommendations for adopted people
- Consider options informed by adopted people to manage, co-ordinate and contribute to all aspects of the adoption journey.

1. Focus groups for adoption law reform

1.1. Background

The government is committed to the reform of Aotearoa New Zealand's adoption laws. The Ministry of Justice (MoJ) lead two rounds of public and targeted engagement to understand people's views on the options the government is considering for a new adoption system.

- The first round of engagement was held between June and December 2021, to gather feedback on the Ministry's discussion document *Adoption in Aotearoa New Zealand*.

- A second round of engagement was carried out from mid-June – early August 2022. The aim of the second round of engagement was to report back on feedback and seek the public's views on reform options the government is considering. A second discussion document setting out the reform options was released on the Ministry's adoption webpage the week beginning 20 June 2022.

In June 2022, MoJ commissioned Malatest International for the second round of engagement to design, organise, deliver and report back on seven focus groups with people with adoption experiences (four online focus groups and three in-person focus groups). The focus groups were conducted alongside multiple other initiatives led by other agencies to gather different stakeholder groups perspectives, including Māori and Pacific (Samoan) engagements and talanoa, written submissions and an online survey.

The focus groups aimed to:

Understand people's views on and reactions to the package of options the Government is considering for a new adoption system

Identify any further options for reform that should be considered

Understand how people's experiences with the current adoption system inform what they think should be changed

1.2. Our approach

The project consisted of a four-phased approach for the second round of engagement and focus groups (Figure 1).

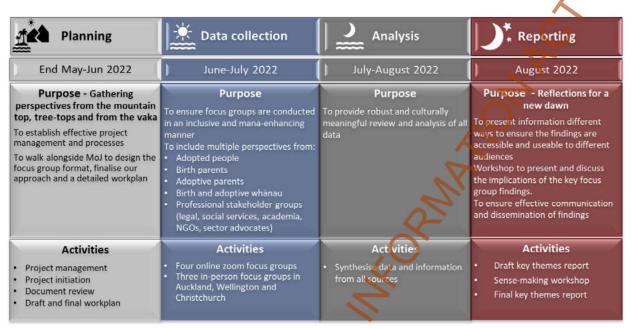| Planning	Data collection	Analysis	Reporting
End May-Jun 2022	June-July 2022	July-August 2022	August 2022
Purpose - Gathering perspectives from the mountain top, tree-tops and from the vaka To establish effective project management and processes To walk alongside MoJ to design the focus group format, finalise our approach and a detailed workplan	**Purpose** To ensure focus groups are conducted in an inclusive and mana-enhancing manner To include multiple perspectives from: • Adopted people • Birth parents • Adoptive parents • Birth and adoptive whānau • Professional stakeholder groups (legal, social services, academia, NGOs, sector advocates)	**Purpose** To provide robust and culturally meaningful review and analysis of all data	**Purpose** - Reflections for a new dawn To present information different ways to ensure the findings are accessible and useable to different audiences Workshop to present and discuss the implications of the key focus group findings. To ensure effective communication and dissemination of findings
Activities • Project management • Project initiation • Document review • Draft and final workplan	**Activities** • Four online zoom focus groups • Three in-person focus groups in Auckland, Wellington and Christchurch	**Activities** • Synthesise data and information from all sources	**Activities** • Draft key themes report • Sense-making workshop • Final key themes report

Figure 1: Our approach

1.3.   Data collection and analysis

Seven focus groups were held with a range of people with different adoption experiences[1].

- Four online focus groups were held on:
  - Monday 27 June 2022 (from 5pm-7pm)
  - Monday 4 July 2022 (from 5pm-7pm)
  - Monday 11 July 2022 (from 5pm to 7pm)
  - Thursday 4 August 2022 (from 10am-12pm)

- Three in-person focus groups were held in:
  - Auckland on 6 July 2022 (from 1pm-3pm)
  - Wellington on 13 July 2022 (from 1pm-3pm)
  - Christchurch on 22 July 2022 (from 1pm-3pm).

A total of 51 participants provided feedback on the MoJ discussion document and adoption law reform options proposed[2]. Focus groups were approximately two hours long. The group discussions were audio-recorded and transcribed. All participants were provided with a $40 koha, and light refreshments were provided for in-person focus groups as a token of appreciation for participant involvement.

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[1] Including adopted people, adoptive parents, and birth and adoptive family and whānau.
[2] The evaluation team engaged with two individual adopted persons who were unable to attend focus group discussions.

1.3.1. Participant recruitment

Focus group details and zoom links were promoted on the Ministry's adoption page at the same time the second discussion document was released the week of 20 June 2022. Participants interested in contributing to a focus group discussion contacted the research team to access further details about the range of focus group options. The reserach team engaged with potential participants to determine a time and date that suited them best; act as an intermediary between participants and MoJ, and respond to any questions; provide venue details and/or zoom links and background information; encourage them to inform their wider networks about opportunities to participate in the focus groups.

1.3.2. Participant consent

Information sheets were provided to participants and discussed prior to the start of the focus groups. Verbal consent to audio record discussions was provided at the start of each focus group.

1.3.3. Focus group question guides

Key questions aligned with the discussion document were intended to guide conversations and allow participants to raise relevant topics important to them. The focus group guide was reviewed following initial focus groups to ensure the required information was being collected.

1.3.4. Focus group facilitation

Our approach to facilitation prioritised setting a trusting and safe space and relationship for sharing We focussed on demonstrating respectful and neutral behaviour through whanaungatanga and engagement with participants, and in establishing connections participants.

A genuine and mutually respectful relationship was established before focus group discussions commenced (for example, each group started with a prayer or other means of engagement [e.g., inspirational quote], introductions/connections and in some groups an ice-breaker activity). Facilitators emphasised that the study valued participants' opinions and experiences and that the focus group aimed to centre their voices on their experiences and views about the proposed options for adoption law reform. A synthesis of options for law reform detailed in the discussion document were used to initiate discussion with participants, explore their views/perspectives about these options and reflections/experiences/contexts that informed their reasoning.

The research team were also aware that there might also be different dynamics and considerations within participant groups, for example on the basis of different ages,

gender and adoption experiences and/or position that could influence participants' engagement in a group setting. Because of this, our team of facilitators were prepared to arrange breakout groups by adoption status and other factors – however, this was not required and all participants were comfortable to talk within the wider group setting. Two focus groups were arranged only with adopted people.

Facilitating Zoom focus groups provided a different set of dynamics. The use of Zoom was a means of communication participants had become familiar with either before or during the first COVID-19 lockdown in Aotearoa New Zealand. It did not inhibit their sharing and contribution to the kōrero. Participants shared their views verbally and in the chat option. Our team of experienced facilitators were also well versed in virtual engagements and effectively staying connected with participants through active listening, clear, efficient and respectful communications.

1.4. Analysis

A general inductive approach was used to guide the analysis of qualitative data. A coding framework was developed to identify emergent themes. Our team met frequently throughout the project to discuss emergent themes and explore intra- and inter- similarities and differences between and across groups and different intersectional contexts. Focus group discussions were transcribed verbatim. This report includes quotes and authentic language (inclusive of expletive language) to signify participants' passion and expressiveness.

Common themes are referenced as 'most' (almost all participants), 'many' (more than half of participants interviewed) or 'some' (fewer than half of participants). Specific and/or less common themes are referenced as 'one participant' or 'a small number of participants'.

1.5. Strengths and limitations

The strengths of this research include:

- The qualitative research methodology allowed the research team to gain insights into the complex nature of adoption experiences from diverse perspectives.
- The research team's approach to engaging with all participants created a safe space for them to actively participate in focus group discussions.
- The synergistic nature of focus group discussions used in this research enabled participants to share and build on each other's experiences and insights in ways that would be less possible in individual interviews. Focus groups also provoked rationalisation and explicit reasoning and helped to

unpack more nuanced understandings of different points of discussion. For many, the focus groups were their first engagement with adopted people sharing and hearing similar experiences was valued.

- A close working relationship between the research team and MoJ and focus group co-facilitation helped to ensure questions posed during focus groups were addressed adequately.

Limitations of this research include:

- Participants in the focus groups reflected on their vast personal adoption experiences (as adopted people and adoptive parents) – the findings cannot be generalised, but they provide in-depth insights from a diverse range of adopted people that broaden the evidence base and can be used to inform future policy and research directions

- Common and dominant themes that emerged across different focus groups were supported by verbatim transcript material and quotes from multiple discussions/participants – it was not possible to include all quotes of relevance to the theme. However, interpretations and descriptions of themes attempt to capture the depth, passion and richness of participants' expression.

- Amalgamating adopted people and adoptive parents' experiences of adoption provides useful insights but also diminishes the strength, meaning and voice for each group. Adopted peoples shared a wealth of information that would benefit from further investigation.

- A specific focus on Māori and Samoan (Pacific) adoption experiences were out of scope for the project – however it was intended that findings from these focus groups would be used to complement information shared in separate hui and fono commissioned by MoJ.

- It is important to recognise that the number of adopted people that input into focus group discussions was not proportionate to the total population of adopted people.

I equally know a number of people who are adopted who I reached out to and said, come and be part of this and they said, we can't it's too painful. It's too painful for us to come and relive these things in our lives. (F5 – adopted person)