

## 2.5. Who makes the decisions?

**Role of government, courts and accredited bodies:** Many participants commonly agreed with the role of government, courts and accredited bodies and also noted that adoption law should:

- Clarify what government agencies/organisations are involved, including their role/purpose/function and mandate to ensure the interests of the child remain paramount.

*I feel that's what's missing in this is any clarity about who's going to do what. And it is complex because there are there are so many organisations involved, and that makes it really difficult sometimes for the interests of the child to remain paramount.. We've all got a role in it and it's really confusing...I would like the detail about who does what... (F5 – adopted person)*

In contrast, a small number of participants did not agree that government agencies should be named so the law could accommodate potential unknown and future public sector changes

*Don't go and name a particular government department, because it may not exist in that shape or form in 20 years... (F6 – adopted person)*

- Include te Tiriti inclusiveness and tribal representation in decision making.

*There needs to be made room for Māori entities or some kind of tribal representative in that decision making whether it's in the court or in a social worker level for Māori children. (F2 – adoptive parent)*

**Adoption support from Oranga Tamariki:** Some participants agreed that all adoptive applicants should be required to engage with Oranga Tamariki before making an application to the Court, and that it was just as important that:

- Oranga Tamariki workforce capacity and resources were in place to adequately deal with applications in a timely manner

*I'd be a bit concerned about timeframes. It takes about a year and a half to be approved to be an adoptive parent through OT... I think it's good principle, I'm just hoping OT would actually have the resources to deal with that efficiently. (F3 – adopted person)*

Many participants highlighted significant workforce capacity and capability limitations for adopted people within Oranga Tamariki.

*Having a dedicated social worker for the child - yes, and that it shouldn't be Oranga Tamariki. Sorry, but it shouldn't be... (F6 – adopted person)*

*Not just any old person who's stretched and overworked and has 46 cases live at the moment just for themselves. (F8 -adopted person)*

- Adoption support should extend beyond the process for making an application. Many adopted people commonly noted it was important for government to maintain oversight of the life-long adoption journey, and request that adoptive parents participate in regular check-ins.

*If we have to have adoption...people's suitability to be adopters...all this assessment, then it's like a sign-off and then that's it. It's like, good luck child with that ride...There needs to be check-ins all along, all through that child's life...If that makes the people who adopted them feel uncomfortable, they probably shouldn't be doing that. If they can't handle that this is somebody else's baby and you're providing care for them, then sorry, you automatically don't qualify. (F8 – adopted person)*

## 2.6. How are adoption decisions made?

**Suitability of adoptive parents:** Some participants highlighted that assessing the suitability of adoptive parents should be conducted by several specialists and professionals and not just social workers

*If there is going to be an assessment of human beings, that shouldn't come down to maybe an individual. It should be maybe even beyond two individuals who are assessing someone's appropriateness to care for a child to build some robustness into that process so that personality (clash) is eliminated. (F6 – adopted person)*

**Social worker reports:** Many participants highlighted that adoption law should:

- Remain high level and allow flexibility within policy and regulatory contexts about details to be included in a social worker report – This may help to avoid potential risk of specifying outdated and irrelevant legal requirements in the future

*You shouldn't be writing into legislation what the report should include. If we look back as to what was thought to be important 40/50 years ago [it is not anymore], we might not get [another] law change for another 50/60 years, the views could change. I'd rather see a general overall statement. (F3 – adopted person/adoptive parent)*

- Mandate the establishment of a lived experience panel to review social worker reports and assess lifelong decisions made on behalf of the child.

*These are significant decisions, lifelong decisions being made, you always want something peer reviewed. So having social workers, sorry, people, you do a nice job, but we don't know what your pressures are on that. Give it to somebody else. Just let's take a look. (F6 – adopted person)*

**Access to other information:** Some participants noted a need for adoption law to ring-fence adequate funding, resource and workforce capacity and capability for cultural, psychiatric and psychological assessments and reports.

*I was interested in access to other information. If you're going to get a psychologist report, you're talking \$2,000. Who pays? The court pay for them currently when they order them in the care and protection space. So does that mean there would make money available in legislation to pay for them in the adoption space as well? (F3 – adopted person)*

## 2.7. What is the legal effect of adoption?

**Legal effect:** Most participants agreed that guardianship responsibilities should be transferred from birth to adoptive parents.

*I'm not saying this is perfect, I'm just saying this is the legal effect of adoption they're saying should be changed and that itself will actually do away with the fiction of 'as if born to these people in legal wedlock', and that's a highly significant thing that is being done there and that affects every other aspect of adoption law. So in that respect, I mean, that is the one thing that's really been tackled. (F5 – adopted person)*

However, many also emphasised that adequate education and support would be needed to ensure:

- Clear and shared understandings about these legislative changes for birth and adoptive parents

*A lot of people are going to need a lot of support to understand that and to understand what it means... This move to a child having legal belonging in both their adoptive family and their family of origin is going to be difficult for people to actually get their heads around. (F4 – adoptive parent - international)*

- The proposed options are not viewed as shared parenting.

*It sounds like the legality in the definitions might need working out... If you make it so that both sets of parents are the legal parents, you're now creating shared parenting, and that's gonna be problematic in practice, not just in law. (F3 – adopted person)*

**Adopted people's birth certificates:** 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.

*What I did like hearing was the fact that we could have a birth certificate that has every parent on there. And what I don't think is out of order is to give us access to every parent's legal rights. We are floaters. We don't have any solid grounding. We should be allowed that... (F7 – adopted person)*

Others did not agree - *Why do we need two? Why do we need to be 'othered' again? (F8 – adopted person)* – and suggested a need for adoption law to:

- Support a move to providing digital access to information

*Personally I don't support two birth certificates...I think we need something more aligned to the digital way in which we now live. (F5 – adopted person)*

- Align with the digital model for Birth, Deaths and Marriages (BDM) and provide options for one birth certificate inclusive of bespoke information identified by and for adopted people.

*With respect, I think the department has not been listening to BDM, because BDM are doing everything digitally and they are working on a model where you would go and you would ask for a certificate which contains the information you want...you could have any number of different combinations and that will be up to the person who's certificate it is. So the idea of two certificates...the way it's been put [in the discussion document] is far too rigid...BDM are working on a completely different model which will allow people to get what they want. (F5 – adopted person)*

**Inheritance:** Some participants noted a need for adoption law to:

- Emphasise and reinforce a moral right for adopted people to inherit property from their birth parents

*My birth mother said to me recently, she said, I know legally I have no obligation to give you anything when I die, but morally I do and I think that actually the legislation should reinforce the fact that actually, yep, you're entitled to inherit from your family. (F5 – adopted person)*

*Inheritance is an interesting question. How much money did he save by not raising me? I mean it sounds silly, but his choice was [text deleted] rather than me...There are consequences to his choices. (F6 – adopted person)*

- Ensure the protection of an adopted child in the event of adoptive parent's death.

*[Based on the proposed new legal effect of adoption where birth parents are still legal parents] My [child], if I was to pop my clogs today and [they] inherited what I have [it would go] back to [their] whānau, who [child] doesn't have a connection to...The [proposed new] adoption law at the moment is not clear enough about what happens with that property because [child is under age] so can't own the property...The law needs to be a lot more clear. (F6 – adopted person/adoptive parent)*

In line with this view, two participants also noted a need for adoption law to recognise birth parents on an adopted persons death certificate and consider the care arrangements for an adopted child in the event of the death of an adoptive parent.

*What I think wasn't mentioned around property is also the legal effect of death. So if the adoptive parents die...my child becomes a foster child again, my family are not her family. They're not considered in law that she would go and live with my brother and her cousins, who as far as she's concerned are completely family. She becomes a nobody and that's not actually mentioned in the legal*

*effect of what would happen to that child if the adoptive parents die. Is the child taken back at, say, 14? (F6 – adoptive parent)*

- Acknowledge inheritance of Māori whenua is on a tikanga basis with the Māori Land Court. Participants also noted that despite this:

- MoJ should have a position/stance on Māori inheritance.

*I don't see why the Ministry of Justice could at least have a position on that or support Māori adopted children that they have a right to the inheritance. (F2 – adoptive parent)*

- Further understanding is needed from an indigenous Māori context.

*As indigenous people of Aotearoa New Zealand, that they need to be able to inherit their tribal inheritance from both sets of parents. If you're going to do citizenship, it seems incredibly unfair and I'm not too sure how to remedy that, of course. The adoption Act severs those ties so I don't know how to reconcile that. (F2 – adoptive parent)*

**Changing children's names in adoption:** Participants provided mixed views 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.

*I do not believe adopters should have the ability to change names willy nilly. I would suggest a high bar for name changes, either first name or surname, and that would be application to the family court and nothing less. (F5 – adopted person)*

*That's their name, leave it, it belongs to them. If they hate it later on, they can change it. And certainly not a judge deciding if somebody can have their name taken from them. (F8 – adopted person)*

In contrast, 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.

*I was actually advised to change my [child's] first name for her own safety...for the judge to be allowed to decide in the best interests, with everybody's input, I think is quite important. (F6 – adopted person/adoptive parent)*

## 2.8. What ongoing contact can adopted children and birth parents have?

Almost all participants agreed that post-adoption contact agreements between adoptive and birth parents and whānau should be introduced. Some participants highlighted that these would ideally be a *meaningful connection* and one participant suggested changing the term 'contact agreement' to 'relationship agreement'.

*It's not just about having contact, it's actually about having meaningful connections, and relationships. So it might not be shared parenting, but it is certainly a connection between families. From my perspective, that's what we'd be wanting to try and create legally or support, legally, is the ability for people to grow up with that in place. So that your contract agreement that is made would be just as binding as one that had been made if it was a shared parenting agreement so it would have those restrictions in place around, you know, if you're thinking of moving, then you would have to take that into account. That's what we want. (F3 – adopted person)*

Many participants also noted that adoption law should:

- Acknowledge that contact agreements will change and require review at different ages and stages – participants considered it important to include the child's voice in a review of contact agreements when the child is of an appropriate age

*If it is, in fact, a child centered approach, then this decision would have to be revisited when the child can weigh in. So making that decision as an infant would actually be a birth parents and parents decision, in which case that is not a child approach. So I don't know how you make decisions on behalf of children, is it science based? Is it faith based? I don't know how you make decisions for children and maybe because of that fact, you simply can't. (F6 – adopted person)*

- Recognise that adequate support is needed for birth and adoptive parents to develop a meaningful, realistic and long-term contact agreement

*It needs to be a space where everyone can be on the same level and everyone speaks and everyone hears everyone and you don't stop until that's done...Come away with a document everyone's agreed to. (F8 – adopted person)*

- Consider multiple contact agreements with siblings and wider whānau (e.g., grandparents, aunts, uncles) in situations where birth parents may initially be reluctant to commit to an agreement

*In my experience contact plans are often between immediate whānau members, adoptive parents and birth parents and I just know in practice sometimes birth parents find contact really difficult in the first few years and for whatever reasons might not have contact. But that child might have siblings or other whānau members, grandparents, whatever that might look like, and I just wonder if there's some scope to broaden the wording somewhat... (F3 – adopted person)*

In line with this view, and the understanding that some birth parents may not immediately be in a position to confirm post-adoption contact arrangements, participants noted a need for adoption law to allow birth parents an opportunity to amend or augment contact agreements.

*We also do some research that found that the decisions that people made at the start were not the decisions that they would have made later and when reflecting back, they said, I would have done it differently which suggests that those early decisions maybe shouldn't be held in stone.. (F3 – adopted person)*

- Clarify that birth parents cannot prevent adoptive families from moving away.

*So it's not like you have to seek permission from the birth parents of anything or legally obliged to ask for the permission? (F2 – adoptive parent)*

A small number of participants disagreed that a post-adoption contact agreement should be introduced, and questioned whether evidence existed about contact agreements being in the best interests of a child.

*Is there actually any evidence that post adoption context does more good than harm for a child..I really question that at the moment. Who is deciding that four times a year minimum is the best?...Risking the rejection of [contact] not happening, which so often happens...forcing that child to go back to something that the [birth] parents wanted them not involved in. (F6 – adoptive parent)*

**Enforceability of a contact agreement:** Most adopted people noted that birth and adoptive parents should not be able to opt out of a contact agreement.

*Both birth and adoptive parents can choose to opt in or out of contact relationships doesn't feel great from the adopted perspective...I think if you're signing up to be an adoptive parent, then you don't get to choose whether your child is going to maintain contact. (F3 – adopted person)*

Adopted parents provided mixed views about whether an agreement should be enforced, noting that enforceability:

- Could supported the intended levels of contact they hoped to have with their child's birth parents

*As an adopted parent, strongly support the direction the bill is taking...We had intended to have a high level of contact with the birth parents of my [child], but they reneged on that for their own reasons...hugely damaging for our [child]...If that would have been in place, we [would be] able to require some level of contact. (F4 – adoptive parent)*

- May impose contact on a birth parent and disregard their reasons for adoption.

*The danger of imposing upon [birth parents] the necessity of ongoing contact with their child goes against the decision that they've actually made to forego the parental responsibilities...It may be that in the child's best interests that there not be any contact at all. (F6 – adoptive parent)*

**Post-adoption culture plans:** 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.

*Post adoption culture plans are already required if people are adopting internationally. So why not within Aotearoa New Zealand if it's a different culture? The question is, when it's two or three cultures. (F3 – adopted person)*

Some participants also recommended a need for culture plans to be required at the start of the adoption process rather than post-adoption, and informed by a social worker, birth parents and adoptive parents.

*It should be something that should happen when they're actually sizing up the adoptive parents. I think with the support of social workers, representing all the different parties. (F2 – adoptive parent)*

## 2.9. What support can people access?

**Counselling, therapy and support groups** - Overall, most participants noted that current opportunities for adoption support are fragmented, inadequate and adoption law should strengthen these for:

**Adopted people – almost all participants highlighted a need for:**

- Equitable and increased access and choice to specialist support for adopted people, a current directory of registered, qualified, adoption and trauma-informed specialists and a government commitment to developing workforce capacity and capability

*An adopted person is not an adopted person by choice, they find themselves in that situation, there's no end to adoption. It's a lifelong thing that we all become a part of. Both of our parents and ourselves and our children are in this. So we need to have equity and fairness about the ability to access that kind of support service. (F4 – adopted person)*

*Yes it's all trauma, but you don't want to go to any old counsellor who deals with trauma. It's no use. You have someone who's had the appropriate training, and probably even the lived experience. (F5 – adopted person)*

Participants also emphasised the importance of gaining access to:

- Trauma-informed specialists and support at all different transitions and periods along the adoption pathway (e.g., reunion with birth families, discharge of an adoption order etc)

*Reunion with your birth family...It's potentially when you're at another point where you need a whole another level of support...The loss that comes from a positive situation as well and what you have to work through and think about, and to navigate all of those relationships. (F3 – adopted person)*

*Even if you're allowed access to records and things, you've still got to deal with the feelings of the people who adopted you and that can be harder than anything. People wait until people die so they don't upset them. (F8 – adopted person)*

- Adoption-informed specialists with an understanding of the severity of harm and trauma experienced by people adopted under the 1955 Act



*I'm very mindful that the current discussion document says this is not looking at historic redress...the reality is what your document currently says is, actually, we're not even interested in it...We're the only traumatised group that has to be grateful and thankful for being traumatised. (F5 – adopted person)*

- Adoption support that is cognisant of intergenerational impacts and trauma, free, and available at any point in time if/when adopted people and or their family/whānau require access to support. Participants also emphasised that adoption care models and support should not re-traumatise adopted people nor be limited by contractual specifications.

*Currently there's very little support for adopted adults. And we all know the impact of abandonment and relinquishment doesn't just come up when you're a teenager or 21. It's when you're 40 or 50, had children, lose a parent. We're just ignored, there's no funding available for adopted adults. (F3 – adopted person)*

*Thinking about who should be able to have access to those services as well...It's intergenerational...I think ensuring there's [accessible support] that's not too restrictive...children of adult adopted persons...our children, our grandchildren who I see carry our shit. (F3 – adopted person)*

*I would like to see that they have much better publicly available support services free of charge for a reasonable amount of time, if not as much as they need. (F7 – adopted person)*

*I've wasted tens of thousands of dollars on counselling. Wasted. Because they're not adoption competent. (F5 – adopted person)*

- Support that is preventative, non-pathologising and pro-active.

*We must stop pathologising the life experience of adopted people. We don't need a diagnosis. We need some help...It's just the life experience that we've had. (F7 – adopted person)*

In line with this view, participants noted a need to broaden current and/or new networks and opportunities for peer support for adopted people.

*I really feel when everyone's talking that it feels like there really is a need adopted persons could voice their experiences and their grief and their pain in this way more often and not just when there is a law reform. (F7 – adopted person)*

**Adoptive parents – many participants highlighted a need for mandatory counselling and education as part of the adoption process for prospective adoptive parents to understand:**

- The trauma of adoption

*I think there is just a woeful lack of education for adopting parents around what they are taking on under stewardship or whatever term we're going to use. And I know I've spoken to adoption social workers who have just done their very best, but it's just give me the baby, give me the baby, give me the baby and they don't want to*

*understand the potential trauma, no matter how good the situation. (F5 – adopted person)*

- How to deal with confronting and sensitive questions when adopted children develop and start to question their identity

*Support group include positive parenting course for me. Because one day my [child] said, why birth mother didn't contact...How to answer those difficult questions. (F6 – adoptive parent)*

- Child and teenage development – and how some behaviours may reflect adolescence rather than an adopted persons psyche and worldview.

*I think parents don't realise that it's just normal teenage stuff still sometimes. Not displaying everything, oh they're adopted so they're acting like this. That's where I think, for the counselling of the parents, if it can be made available to make them aware that it's not just because the child is adopted, it can be a normal family where you can get kids that suddenly go off on drugs or whatever. So it doesn't necessarily have to be because they're adopted. (F1 – adoptive parent – international)*

Adoptive parents also valued the establishment of a peer support network and opportunities to engage with each other.

*I love the thought of a support group kind of thing. For us, we kind of missed out on like a plunket group. So we just were like, we've got a child and we don't kind of have any parental friends. But to have other families that you can build connection with who are kind of in the same boat, facing some of the same challenges, I could see some real value in that. The onus shouldn't be on us to set up a Facebook page and to facilitate it and admin it. It shouldn't fall on the family to do yet another job on that. (F6 – adoptive parent)*

**Birth parents – some participants highlighted a need for mandatory counselling and an education requirement for birth parents to make informed decision before placing child up for adoption:**

*People are potentially in a traumatic situation, they're in crisis, so how do you propose some sort of mandatory counseling before you get to make that decision? They might make a different decision based on whether they've had some information about maternal separation at birth and what that might mean for their child, or this is what we know about adopted people and what they experienced as they're older and it might change their views. (F3 – adopted person)*

*We don't take pups of their mothers until they're eight weeks old...It should be something like six months of pastoral, physical, practical support of the natural parents to have that child in their wider family being educated about the decision they are looking at making and a substantial period of time where that child is still cared for and maybe the adopting parents are part of that equation. (F5 – adopted person)*

**Education (before and after adoption) – Overall, participants acknowledged a need for education about adoption and its impacts for:**