

3. 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.

3.1. Consider alternative care options

Many adopted people perceived that overall, the proposed options for law reform were less aspirational than they hoped and:

- Advocated the abolition of adoption in light of the extensive trauma and harm adopted people have and continue to endure throughout their lives

I think adoption should be abolished and the reason for that is because adoption is intrinsically harmful to children, intrinsically exploitative, intrinsically traumatising. (F5 – adopted person)

Participants considered that the discussion document disregarded a need to demonstrate consensus across Aotearoa New Zealand about whether adoption should still exist. Adoption law reform and the government's stance on adoption was described as *fait accompli*:

In the discussion document it says, we agree that adoption should still exist, there should be adoption. However, in the summary of feedback, the Family Court judges submission says that it's not needed, that adoption isn't necessary anymore and that it could go under the Care of Children's Act (a declaration of permanent parenting as part of the continuum of care). (F5 – adopted person)

- Noted that adoption was often *presented as the benchmark* and considered this a *long term solution to a short-term problem*:

...parents placing their children for adoption, that's a very complex situation...If you don't have family preservation at the very heart of any legislation, then the reasons for people relinquishing their children are often financial or lack of support or single parents, and what you're talking about here is a long term solution to a short term problem and the permanency that goes around that is incredibly limiting when it doesn't need to be. There are many mechanisms we could use. (F1 – adopted person)

Participants emphasised the importance of ensuring family preservation was at the forefront of any legislative requirements, funding and belief systems.

Family preservation, if that was our entire belief system as our beginning point, it would alter the paradigm around adoption...A person who cannot be cared for in their family of origin should not have to pay for the family's dysfunction with the loss of their identity. (F1 – adopted person)

- Advocated that the government consider alternative legislative care options such as:

- Enduring guardianship – to ensure *permanence for an adopted person without the legal restrictions that they then have to maintain for all their lives.* (F1 – adoptee)

Principles of guardianship...that's really putting the child at the centre. They're still themselves, they don't change to another person and then spend their life trying to figure out which of the people they are. (F8 – adopted person)

It is important to note adoptive parents provided contrasting views to adopted people and highlighted the importance of being legally recognised as parents rather than guardians.

I remember vividly the day that we went to the Family Court and the adoption order was granted. I was surprised by how significant that was for us as parents to be recognised in the eyes of the law as full legal parents, not as guardians...I would be discouraged greatly if all of the proposals were all around, 'oh, we don't actually want to allow there to be a way to have the full legal title of a parent'. (F7 – adoptive parent)

- A stewardship model:

In order for a child to be placed with others, I would suggest under a stewardship model rather than adoption because I'm opposed to the language of adoption and believe adoption, the word, should be removed from the new law...If you have demonstrated that you left no stone unturned, then the stewardship model kicks in and other people have the day to day rights and responsibilities for caring for the child. (F5 – adopted person)

- A parental care order:

I have felt like a fraud for a long time with adoption, because it was a step-parent adoption...Knowing how much pain I feel with my adoption...if there has to be adoption, which I don't believe there should be adoption, I believe there should be a parental care order, or whatever it's called, if a child cannot live with their family. (F7 – adopted person)

Some adopted parents explicitly disagreed with the abolition of adoption and noted limitations with fostering. In contrast to the views expressed by adopted people, these participants perceived adoption as providing permanence for children and families.

Children...know [foster care] it's not permanent, they know that it might end. There's not full security to know that maybe it won't work out and they'll be sent to another foster home. So for my experience, I would say that clear cut adoption gives the kids more security. (F1 – adoptive parent – international)

3.2. Use relevant, strengths-based and non-discriminatory language

Many adopted people noted a need to for adoption law to review the language utilised throughout the discussion document to ensure that various terms and definitions:

- *Reflect a fresh start for new legislation* and do not carry perceived negative connotations from previous practices and policies:

I don't see there is any opportunity to consider a different term other than adoption...I think that we do definitely need something that is sort of enduring care for children...It just seems to me that the word adopted is so tainted in practices of the past. I feel like it needs to be retired in the same way that the legislation is retired. It should not be associated and be synonymous with that era in our history because of the damage that it's caused. (F7 – adopted person)

- Are relevant and up-to-date:

*It says that the purpose of adoption will be **to create** a stable, enduring and loving family relationship, and I think that phrase in itself is quite last century. It really is about **providing** that stable family environment for a child. So just being really cautious and careful around how language is used. (F4 – adopted person)*

- Do not stigmatise and discriminate against adopted people:

I have a problem with the word adoption. I'm not a cat from the SPCA. It's a very harsh word...There must be a word that isn't adoption. It's a nasty, vile word that we, I presume, have all been bullied about. Because it makes me different to you. It makes me different. (F5 – adopted person)

- Resonate with lived experiences and acknowledge that there is **no after-adoption**.

For us there is no after an adoption, for our children there's no after an adoption...Through the new legislation, we need to just be mindful of the terminology and just be mindful that when we are talking about it, that this is a lifelong process for adopted people. So it has the impacts for their lives, for their children's lives, for their grandchildren's lives. (F4 – adopted person)

3.3. Recognise different child development ages and stages

Many adopted people emphasised that the discussion document and law reform require a clear definition for the term 'child-centred'.

We have no definition of what child-centred actually means. I mean, a child is a child for a very short time. (F1 – adopted person)

Although elements of a child-centred focus were evident throughout different sections of the discussion document – participants generally noted that although

adoption law must be child-centred, it must also accommodate, recognise and be responsive to the needs of the person as they develop into adulthood.

The acknowledgement that children grow up and that whatever we're doing for the child might not be the best thing to do for the person when they're an adult. It doesn't need to be worded that way, but you understand the principle. (F3 – adopted person)

What you're talking about is a child who is requiring a certain thing or a young person, you're not talking about what happens when they grow up, when they become older, because there's no aging out of adoption (F1 – adopted person)

3.4. Prioritise issues of importance that are identified by adopted people

Many adopted people emphasised the importance of acknowledging that adoption is an ongoing lived experience that most adopted people did not choose. It was considered critical that legislation provides adopted people with choices that were previously taken from them.

The act of adoption, it's not a one-off thing, it's an ongoing, every day experience. It doesn't happen once; it happens every single day of an adopted person's life. And if there's no position to age out or to make a choice for identity, then what kind of legislation is that, that controls people? (F1 – adopted person)

Participants emphasised a need to meaningfully draft/amend the law by prioritising issues of importance to adopted people.

...Inheriting property is probably right down the bottom of the list of importance to adopted people. There are much more important issues in terms of identity...and knowing who your family and whānau are...I'd like to see legislation drafted in a really meaningful way and some of the really important issues dealt with first. (F4 - adopted person)

Property isn't anything, it's connection [and] knowing where you come from. It's knowing your tūrangawaewae, it's knowing your maunga. That's the taonga, the important thing that you're cut off from, and having to make a bullshit pepeha. So it's inheriting pepeha, it's inheriting whakapapa that's you, that's come down from all those people. That's the inheritance that we don't have. (F8 – adopted person)

3.5. Establish adequate and standardised data collection and monitoring processes

Adopted people overwhelmingly agreed that current data collection and monitoring for adopted people was significantly lacking and inadequate.

...we have no mechanisms to collect information. So for instance, doctors never ask about adoption status. They do constantly ask about hereditary illnesses and then you are required to say you're adopted, so you don't know, they pass right over that.

The coroner doesn't collect adoption statistics in terms of suicide. There is no collection of self-harm statistics in relation to adoption. The Census does not look at adoption in any way. It doesn't look at outcomes for adopted people, education levels of adopted people. We don't know. (F1 – adopted person)

Participants strongly highlighted a need for legislation to:

- Support the establishment of robust, adequate and standardised measures, indicators and data collection practices for adopted people across all government agencies and routinely collected datasets

I think what's really critical is actually data collection. If you don't collect the data, if you don't know what's happening, then you don't know how to respond, you don't know where the issues are, you don't know where the problems are, and especially identifying where there are problems or even if there are problems. If you aren't collecting data, you don't know. (F4 – adoptive parent – international)

- Enforce and monitor the collection of accurate and standardised information for all adopted people from birth, to eliminate historical practices and the potential to falsify documentation, records and information.

Data collection, making sure that it's consistent. That there are metadata elements that are identified so that we know exactly what information should and must be provided. (F4 – adopted person)

When I got my files, the lawyers had written that I was completely healthy and sound and fit for adoption, which was a lie. When I was born, I had a heart condition...because of my mom and step-parent's religion, I was denied lifesaving surgery because of a blood transfusion. (F7 -adopted person)

The first thing we need to deal with is there's a whole bunch of birth certificates³ from my era that are inaccurate and are not holding proper information. The fact that we had the Crown at that point and we had a system at that point that was going to take even a birth certificate and not fill it out correctly, to me, what the hell's that thinking? (F6 – adopted person)

3.6. **Commit to adoption law reform and Royal Commission recommendations for adopted people**

All adopted people supported Adoption Law Reform and the Abuse in Care - Royal Commission of Inquiry but noted that the undertaking of two major pieces of work at the same time has required a lot of time, emotional strength and courage from many adopted people.

³ This latter view exemplifies historical risks for adopted peoples' birth certificates to contain incorrect information and should be read in conjunction with participants overall views about adopted people's birth certificates in section 3.7.

I'm with you on the exhaustion bit and how hard it is...especially with two things happening at once here in Aotearoa New Zealand. It's like living and breathing adoption every single second of every day. (F7 – adopted person)

Participants strongly recommended a need to ensure:

- Consistent and clear communications for adopted people about:
 - How to input into the Royal Commission process

We've talked about the abuse in care, why are we lumped into that process? [the harm for adopted people is] the result of state sanction trauma...I don't think [adopted peoples'] voices are going to be heard [by the Royal Commission]...please don't let it be too late for us to have a voice around that aspect. (F5 -adopted person)

There is a comms issue...because when the Royal Commission started up, I rang them immediately and said, I want to speak to you, and they said, we're not interested in you because you're adopted, it's nothing to do with adoption...The comms around the whole issue is problematic. (F5 – adopted person)
 - Recommendations informed by the Royal Commission Inquiry

It says that the discussion document doesn't have options that directly address the harms of past adoption practice and that past adoption practice is being considered by the Royal Commission...The government will consider recommendations made by the Royal Commission on past adoption practice following its report back. So I don't know how you're going to get that information out to adopted people and other people impacted, but I'd really like to see something happen in this process, as a result of these two discussion documents, about how that information is going to be communicated to people, because that's really important for people that have been impacted by adoption. (F5 – adopted person)
- Government commitment to action the Royal Commission recommendations and prioritise future actions that specifically address the harm and trauma previously inflicted on adopted people

I'm very aware that what we're talking about is discussion documents and potential policy changes which have to go through legislation and goodness only knows. We all know what happens in select committees and things, and I guess that's what really concerns me about the Royal Commission of Inquiry only mak[ing] recommendations. Governments then have to look at them and decide whether they're going to accept them. There's a long history of Royal Commissions and Commission's of Inquiry in this country where recommendations have been made and nothing's ever been done about it. (F7 – adopted person)
- Recognition that beauraucratic challenges contribute to the re-traumatisation of adopted people – such as:

- Adding the trauma of adoption to the scope of the Royal Commission Inquiry – some participants advocated a need for a separate Inquiry for adopted people

About the Royal Commission, if I'm sitting on the other side, being one of those poor people in care, I'd be quite insulted to know, now we're going to just add trauma of adoption to this one, we're going to extend the terms of reference. That is such a Wellington, parliamentary bureaucratic, my world process...I'd say to...the Royal Commission, think about that because I think that one needs to be deal dealt with in its own right. (F7 – adopted person)

It doesn't just damage me, it damages my children, and eventually it'll damage my grandchildren, and it's just not on. It's time some thing was done about it, and that's why I was so angry when I read your discussion document and saw it had all just been hit off to the Royal Commission. (F7 – adopted person)

- Limited action and commitment from successive governments to address the harm and trauma inflicted on people adopted under the 1955 Act.

Now this has sat around and gone and been battered everywhere in Parliament by all the politicians because it doesn't score votes. But they've got to recognise, someone's got to get in amongst them and get all the parties lined up and say, look, let's just get it through. What thinking's been put there? (F7 - adopted person)

We're a small group and we're really easy to sweep under the carpet and we've been swept under the carpet for decades, and that's why we're all so hurt. (F7 – adopted person)

It is important to note that these experiences of re-traumatisation occur in conjunction with those experienced through engagement with various support services and government agencies (see section 3.9).

- Formal acknowledgement of the harm, trauma and pain experienced by people adopted under the 1955 Act through a formal government apology.

Just an observation as an adopted person, we've got to stop saying sorry. We say sorry for the most trivial things...We are sorry and we don't even know what we're sorry for...because we've been put into a situation which was none of our making and now we have to live with it for the rest of our lives. And everyone who is associated with us also has to live with it and manage their way around us. And there's not a lot out there to assist us to live our life. There isn't. And it hurts. It's painful and it sucks...It needs to change. It's not good enough. And I also want to see an apology. (F5 – adopted person)

I think that the discussion document doesn't have any options to deal with past practices. Personally I want to see an apology to adopted people and people impacted by adoption. (F7 – adopted person)

3.7. Consider options informed by adopted people to manage, co-ordinate and contribute to all aspects of the adoption journey

You can't make decisions for people like us if you don't have us at the table. (F8 – adopted person)

Adopted people commonly emphasised the importance of including the voice and insights of those with lived experience throughout all phases of the adoption process moving forward. Participants recommended the need for adoption law to consider a range of proposed options purposed to ensure that lived experience is integrated into an authentic child-focused adoption system:

- Establish a lived experience working group, non-government agency or panel to work with MoJ to review and advise on law reform adoption unit policies and processes

I think there's a huge piece there around, not only do we not have adoption informed and adoption experienced people as part of this policy development, but there's such a lack of adoption informed counselors and support people around. (F5 – adopted person)

- Establish a lived experience working group, non-government agency or panel to provide specialist oversight and advice about the multi-faceted support requirements for adopted people and all those involved in one's adoption journey (see section 2.9)

There's quite a lot of us who'd be prepared to do that...what's the best thing for this little person?...That would hold the child's safety more strongly than a professional doing it as part of their job. (F8 – adopted person)

I mean at the moment, [education and awareness raising is] just happening privately in small ways. [Lived experience professional] is now going to conferences of psychologists and social workers and trying to educate, but pays to go to these things...There's just tiny pockets of people trying to do stuff. So I've got a big question about what's going to be the centralised or the functional setup to support all of this need? Who's going to be managing that? And who's going to be funding that? Where's the training for all professionals that touch adopted people in this country? (F5 – adopted person)

- Establish a lived experience working group, non-government agency or panel to work alongside social workers and lawyers appointed to represent a child.

Anyone can front up and look good. Like going to a job interview and you've got your best shirt on and you're smiling and nodding. And we know from experience that people have turned out to be horrible people and really messed up children's lives. And even the nice ones, it's still complicated. It's just left to professional discretion, like again, professional specialists... 'Hi, I'm a lawyer and I work in an office, I have decided as a professional, these people should get a child'...What would be really

great is if, throughout this, there were adult adopted persons to advise and support to just keep that up there. (F8 – adopted person)

Many participants highlighted that the working group, non-government agency or panel should be:

- Lead by people with lived adoption experience.

I think it needs to be external to government. I think it needs to be external to any accredited agencies that work to support adoptions. I think it needs to be centralised. And it's a huge ask, but it needs to encompass all of the people who are inside, around part of, bump up against adoption in one form or another. So I'm talking about uncles, cousins, children, grandchildren, partners of people that are adopted. (F4 – adopted person)

- Informed by a cost-benefit analysis – participants identified a need to reallocate funding to the areas of most need for adopted people .

The cost to the country in people who have challenges working, challenges in relationships, challenges financially, challenges with mental health, challenges with physical health. Like these were all caused by that [adoption trauma] and they cost a lot of money...It's a cost saving thing [to] just take a little bit of that money and put it into the awesome advisory group of strength and power and goodness. (F8 – adopted person)