

Victorian Government response to the recommendations of the Legislative Assembly Legal and Social Issues Committee's Inquiry into responses to historical forced adoption in Victoria

Introduction

The Victorian Government welcomes the Report and recommendations of the Legislative Assembly Legal and Social Issues Committee's *Inquiry into responses to historical forced adoption in Victoria*. The Government acknowledges the efforts of everyone who provided submissions and evidence to the Inquiry, particularly given the sensitive and distressing subject matter.

"Forced adoption" is a term that covers a range of traumatic experiences suffered by families prior to the *Adoption Act 1984* (Vic) being implemented in 1985 with its requirements for counselling and informed consent, and in particular prior to the introduction of financial assistance to single mothers by the Whitlam government in 1973 (and extended to single fathers in 1977). Adopted children were often deprived of any knowledge of their identity and their family of origin and many fathers of forcibly adopted children also suffered loss. The consequences of this suffering were sometimes passed to the next generation.

Babies were taken from mothers at birth. Sometimes mothers were medicated to stifle any resistance. Sometimes false promises were made, written consents were falsified and records were 'lost'.

Whatever the individual details, the taking of babies from unwed mothers occurred routinely and in a social setting of secrecy, blame, shame and alleged sinfulness, where institutions, professionals and the mother's own family conspired to hide the pregnancy and the resulting baby. This secrecy had long-lasting effects and mothers and adopted children have felt silenced and unable to tell their stories.

For decades these cruel and inhumane practices were sanctioned or implicitly condoned by governments, professionals, charities, hospitals, the community and families. The mothers lost their children and also lost the support of their own families, their jobs and their standing in the community.

A Senate Inquiry led to a national apology for these practices and to an apology by the Victorian government and opposition on 25 October 2012. Despite these apologies, little has changed for the mothers and adopted children and much remains to be done.

The Government's response to the Forced Adoptions Inquiry fully acknowledges this shameful part of our history, and the experiences of people who have suffered and are still suffering, and is a commitment to action.

The government acknowledges that it is important that there is recognition and accountability from responsible institutions and organisations and hopes that this response will assure those people affected by historic forced adoptions that the harm done has been recognised. The government accepts the view of the Inquiry that formal apologies alone, like the Victorian Government's 2012 apology 'to the mothers, fathers, sons and daughters who were profoundly harmed by past adoption practices in Victoria' are not enough.

The government will address the traumatic and long-lasting impacts caused by past practices of forced adoption and learn from this Inquiry to ensure that the mistakes of the past are not repeated.

Actions already taken

The government has already implemented a number of the Inquiry's recommendations. Operational changes and improvements already introduced include removing the requirement that a person wanting to access information must first be interviewed by an approved counsellor. A more flexible approach is taken now to ensure that applicants are supported. Decisions regarding the approval of adoptive families and the release of adoption information are now made by the Secretary to the Department of Justice and Community Safety or her delegate and not by adoption agencies.

The Inquiry also called on the Victorian Government to waive any court costs or fees associated with a person applying to obtain information that was previously redacted or withheld under the *Adoption Act 1984* (Vic). The Court now waives the application fee, along with a number of other adoption related fees.

The Inquiry made several recommendations calling on the Victorian Government to ensure that organisations providing family and parenting support are adequately resourced. The Victorian Government is investing more than \$335 million over four years to provide support services for vulnerable children, including the expansion of the Family Preservation and Reunification Response. This landmark reform initiative is using contemporary, evidence-based approaches to support families to remain together safely, where possible, and to enable children in care to return home safely, using practice elements known to be effective in family preservation and reunification.

Some services have been provided since 1989 through the Victorian Adoption Network for Information and Self Help (VANISH) and funding for this service is currently provided through to 2023-24.

The Inquiry made several recommendations calling on government to ensure the effective implementation of the Aboriginal and Torres Strait Islander Child Placement Principles. The Victorian Government is investing over \$160 million to implement Wungurilwil Gaggapduir: Aboriginal Children and Families Agreement. Under the Roadmap for Reform: Strong Families, Safe Children commencing 2016, this investment is resourcing and enabling Aboriginal Community Controlled Organisations to deliver Aboriginal-led child and families services and provides the mechanism for the organisations to have full decision-making responsibilities for Aboriginal children involved with child protection.

The Inquiry also called on the Victorian Government to ensure the ongoing provision of a flexible and comprehensive post-adoption support service. The Victorian Government currently supports post adoption support services with funding of \$0.823 million provided in 2021-22 as well as services provided directly through the Department of Justice and Community Services. While the Victorian Government is already committing significant funding to improve the care and support of mothers and their babies, it is acknowledged that the Inquiry is indicating that more can be done to support families at those times when they are particularly vulnerable and at other times throughout their life.

The Victorian Government's response

In addition to the actions already taken, the government is pleased to respond to the full recommendations in the Committee's Report.

The Inquiry made 56 recommendations covering a range of issues aimed at government and other public agencies, including hospitals as well as other organisations involved in historical forced adoption.

The Government's response addresses each recommendation in the Report, identifying current government initiatives aimed at addressing the concerns raised, as well as future priorities and actions that will respond to the Inquiry's recommendations. It has been developed across multiple portfolios, including justice, health, mental health, Aboriginal Affairs, child protection and Creative Victoria. The Commonwealth Attorney-General's department and Department of Social Services also participated in its development.

The Victorian Government is proud to support design and scoping of a redress scheme. Consultation will occur on the design of the scheme so that we appropriately recognise and account for the harm caused. We are also pleased that the response supports implementing integrated birth certificates; providing crisis counselling for impacted Victorians; and resources to implement recommendations as set out in this response.

Knowing your origins and identity is crucial to a person's wellbeing, hence the recommendations requiring easier access to, and the location and provision of, adoption records and information are a critical component of the Government's response.

The Government's response supports in principle those recommendations calling for legislative reform as many are best progressed in conjunction with a broader package of operational and service reforms.

Several of the recommendations will require government investment above existing levels to implement and so can only be progressed in the context of State Budget processes.

The Government will develop an implementation plan as a first priority.

The Victorian Government would like to again acknowledge the very important work of the Legal and Social Issues Committee, as well as the individuals and organisations who shared their experiences, time and expertise with the Inquiry.

Victorian Government response to the Inquiry's 56 recommendations

No.	Recommendation	Response	Considerations
1	That the Victorian Government encourage organisations that were operating during the historical forced adoption period in Victoria to reflect on their involvement and policies and practices at the time and issue apologies for harm caused. The apologies should be delivered in accordance with the five criteria of effective apologies as identified in the Inquiry into <i>Commonwealth contribution to former forced adoption policies and practices</i> .	Support in full	<p>The Government acknowledges that past practices have resulted in significant harm and trauma for people subject to historical forced adoptions.</p> <p>The Government will communicate to the relevant organisations that it would like them to follow its example and, to issue an apology using the five criteria identified in the Inquiry into Commonwealth contribution to former forced adoption policies and practices.</p>
2	Statements of responsibility or individualised apologies from institutions and organisations operating during the historical forced adoption period in Victoria should be included in a historical forced adoption redress scheme in Victoria.	Support in principle	<p>The Government recognises the importance to those affected by forced adoption practices of acknowledgement and recognition of the harm caused by the practices of institutions and organisations involved in forced adoption.</p> <p>Government will work with senior representatives of the institutions and organisations to encourage their participation in facilitated discussions with each applicant and their support person. The development of a redress scheme will be carefully considered and responded to more fully in the recommendations regarding the development of a redress scheme later in this response (recommendations 18 – 22).</p>
3	That the Victorian Government require all public hospitals directly involved in historical forced adoptions to develop a specific application form for mothers and people who are adopted to request their hospital records. These forms must be published clearly on hospital websites, alongside apologies for their role in historical forced adoptions. Private hospitals should be strongly encouraged to do the same.	Support in full	The Government will require all public hospitals involved in historical forced adoptions to develop a specific application form. The Government will take steps to ensure mothers and people affected by historical forced adoptions have access, where possible, to hospital records.

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4	That the Victorian Government require all public hospitals directly involved in historical forced adoptions to waive all fees for mothers requesting to access their hospital records. This includes waiving the application fee under the <i>Freedom of Information Act 1982 (Vic)</i> on the grounds of causing 'hardship'. Private hospitals should be strongly encouraged to do the same.	Further consideration required	The Government will take steps to require public hospitals to waive fees associated with applications for information about records, including those made under Freedom of Information provisions. Private hospitals will be encouraged to do the same. Should these arrangements fail to achieve the desired outcomes, the Government will consider whether legislation is required.
5	That the Victorian Government strongly encourage organisations involved in historical forced adoptions to establish projects to identify all records still in their possession and make information about those institutions and records available to the Government Adoption Information Service.	Further consideration required	<p>The Government will request that all organisations holding historical adoption records ensure that they take steps to identify all records that they hold if they have not already done so, and make them available to the Government Adoption Information Service as required.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
6	That the Victorian Government require all public hospitals directly involved in historical forced adoptions to provide an explanation to information applicants as to why a hospital record cannot be located, including details of when and how records were destroyed if relevant.	Support in full	The Government will require all hospitals directly involved in historical adoption records to make every effort to explain why a hospital record cannot be located, including details of when and how records were destroyed if possible.
7	That the Victorian Government update the wording of the <i>Taken Not Given</i> memorial plaque to acknowledge that the memorial does not reflect the diverse views of those affected by the policies and practices of historical forced adoption in Victoria.	Support in principle	The Government will consult with stakeholders about changing the wording on the <i>Taken Not Given</i> memorial plaque to better reflect the range of experiences of people affected by forced adoption.

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8	That the Victorian Government immediately consult with stakeholders regarding a new location for the <i>Taken Not Given</i> memorial.	Support in full	The Government has consulted and will continue to consult with stakeholders about an appropriate site for the <i>Taken Not Given</i> memorial should a new site be required.
9	That the Victorian Government encourage institutions involved in historical forced adoptions consult with mothers and other affected people to create and display a commemorative memorial or plaque.	Further consideration required	<p>The Government will encourage institutions involved in historical forced adoptions to consult with mothers and other people affected by past forced adoption about displaying a memorial or plaque.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
10	That the Victorian Government make <i>Without Consent</i> a permanent exhibition in Victoria and consult with stakeholders to determine an appropriate location.	Further consideration required	<p>The Commonwealth provided feedback to the Government response that notes advice from the National Archives of Australia is that, as is usual practice with time limited exhibitions, the <i>Without Consent</i> supporting display materials have been sensitively disposed of and artefacts returned to contributors. The establishment of a new exhibition in Victoria would be a matter for the Victorian government.</p> <p>The Commonwealth notes that the website <u>Without consent : Australia's past adoption practices. (nla.gov.au)</u> is hosted by the National Library of Australia.</p> <p>The Government will seek advice from the National Archives of Australia about the possibility of creating a permanent home for the remaining <i>Without Consent</i> materials. If the establishment of a permanent home is possible, the Government will consult with stakeholders about an appropriate location and what format a new exhibition might take.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
11	That the Victorian Government advocate to the Australian Government to extend the National Archives of Australia's funding to document the testimony of people affected by historical forced adoptions until June 2022.	Support in full	The Victorian Government will write to the Commonwealth Government to acknowledge the significant investment of \$67.7 million which they announced to address access applications, transfer, digitise and preserve records and complete cybersecurity upgrades. The Government will outline the importance of undertaking this work for people who have experienced historical forced adoptions.

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12	That the Victorian Government establish a website that includes all relevant information about historical forced adoption in Victoria, including the experiences of mothers and other people affected, the apologies made by government and non-government Records, and information on how to access records, support services or to find out more information.	Support in principle	The Government supports development of a website that contains the current information and additional content about historical forced adoption in Victoria; the experiences of mothers and other people affected by past practices; the apologies of organisations and information about accessing support services.
13	That the Victorian Government designate one day each year to commemorate historical forced adoptions in Victoria, in consultation with those affected by historical forced adoptions. The Committee considers that 25 October, the anniversary of the Victorian Parliamentary Apology for Past Adoption Practices would be suitable.	Further consideration required	<p>Following further consultation with stakeholders as to the most appropriate date and format, an annual memorial day may be established.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
14	<p>That the Victorian Government advocate to the Australian Government to fund the Australian Institute for Family Studies to conduct a follow up study to <i>Past adoption experiences: National research study on the service response to past adoption practices</i>.</p> <p>The Committee proposes that the study should:</p> <ul style="list-style-type: none"> • have a public awareness campaign to reach as many participants as possible • seek perspectives from people affected by historical forced adoptions, including adopted people, mothers, fathers, children of adopted people, extended family and adoptive parents • be an ongoing research project for the Australian Institute for Family Studies • explore issues relating to separation trauma and abandonment, loss and disenfranchised grief, identify, relationship dysfunction and intergenerational effects. 	Further consideration required	<p>The Commonwealth provided feedback to the Government response that it believes further consideration of this recommendation is required, including whether:</p> <ul style="list-style-type: none"> • the areas of the proposed study as outlined could be met by existing research or research currently underway. • the Australian Institute of Family Studies (AIFS) is best placed to conduct this follow-up study as scoped. • a national follow-up study to the <i>Past adoption experiences: National research study on the service response to past adoption practices</i> is necessary, or is something that could be conducted by each jurisdiction according to need. <p>The Commonwealth notes the original AIFS study was considered by members of the Community and Disability Services Ministers Advisory Council (CDSMAC) and that support and funding for any ongoing study would need to be considered by Community Services Ministers.</p> <p>The Victorian Government will continue discussions with the Commonwealth Government that the Australian Institute of Family Studies and/or other suitable research organisations be engaged to conduct a follow-up study, having regard to the proposed scope and methodology and Commonwealth feedback regarding existing research or other research currently underway.</p>

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15	<p>That the Victorian Government undertake an inquiry into the experiences and the effects of adoption on adopted people for the purposes of:</p> <ul style="list-style-type: none"> • understanding the lived experiences of adopted people • examining the effects of adoption on adopted people • informing adoption legislation, policy, and practices • exploring options to specifically recognise the separation, loss and grief of adopted people • raising awareness of the challenges facing adopted people. 	Further consideration required	<p>The Government acknowledges the value of undertaking this research. Legislative change is required to enable qualitative research into the effects of adoption.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
16	<p>That the Victorian Government implement Recommendation 70 of the Victorian Law Reform Commission in its Review of the <i>Adoption Act 1984</i> to introduce a no-fee, no-fault procedure for applications to discharge an adoption order.</p>	Further consideration required	<p>The County Court is responsible for making all judicial decisions about adoption in Victoria.</p> <p>The Government will engage with the County Court and Court Services Victoria to discuss implementation of this recommendation, which may involve a change to existing court practice. Any legislative changes will be implemented if broader reforms are made to the Adoption Act 1984.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
17	<p>That the Victorian Government publish a step-by-step guide for discharging an adoption on the websites of the Department of Justice and Community Safety, the Supreme Court of Victoria and the County Court of Victoria.</p>	Support in principle	<p>The County Court of Victoria website provides online guidance for applicants and support for unrepresented litigants.</p> <p>The Government acknowledges that this information can be enhanced and will consult with the County Court, Court Services Victoria to update the materials.</p>

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18	<p>That the Victorian Government establish a redress scheme for mothers whose babies were forcibly removed from them without delay. The redress scheme should comprise the following: a monetary payment, counselling and psychological support and a direct personal response from relevant institutions and organisations. The redress scheme should be guided by the following principles:</p> <ul style="list-style-type: none"> • The redress scheme should operate on the principle of do no further harm • The evidentiary threshold should be 'reasonable likelihood' that the mother and baby were forcibly separated, given the passage of time, the loss of records and to prevent re-traumatising applicants • The eligibility criteria should be broad and include mothers who gave birth in Victoria and mothers who gave birth interstate but now reside in Victoria, to account for the fact that many mothers were sent interstate for their pregnancy and birth or moved interstate due to the trauma • The process should be straightforward, and applicants should be supported with legal and counselling support • Applicants may choose to accept one, two or all of the components of the redress scheme • There should be a fixed payment to acknowledge the forced removal of mothers' babies, rather than an assessment matrix • Counselling should be lifelong and available on an episodic basis • Counselling should also be offered to other family members in recognition of the intergenerational effect of historical forced adoption • Mothers should not be precluded from accessing the redress scheme if they have made a civil claim 	Support in principle	<p>The Government is considering a range of available options and schemes to acknowledge the significant harm and trauma that past practices have resulted in for people involved in historical forced adoptions. The scheme will include the elements of payments, counselling, legal advice and individual apologies and will be otherwise consistent with the detailed recommendation.</p> <p>A hardship fund will be immediately designed and established for mothers impacted by forced adoption with exceptional circumstances, including those who are terminally ill.</p>

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19	That the Victorian Government work with responsible institutions and organisations to guarantee their involvement in the redress scheme, including reimbursement for redress payments and/or lifelong therapeutic support for redress recipients. Sanctions should be considered for institutions and organisations that do not commit to the scheme within a set timeframe of its establishment by the Victorian Government.	Further consideration required	<p>The Victorian Government is considering a range of available options and schemes to acknowledge the significant harm and trauma that past practices have resulted in for people involved in historical forced adoptions. The Victorian Government will actively engage with the institutions and organisations involved in forced adoptions as part of any redress package. Sanctions for institutions unwilling to participate with the Government will be considered.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
20	That the Victorian Government use its position on the National Federation Reform Council (formerly the Council of Australian Governments) to advocate for historical forced adoption redress schemes in other states and territories.	Support in principle	<p>The Government is considering a range of available options and schemes to acknowledge the significant harm and trauma that past practices have resulted in for people involved in historical forced adoptions.</p> <p>The Government will consider available options for advocating with other states and territories in relation to the establishment of Forced Adoption Redress Schemes.</p>
21	That the Victorian Government establish and fund a legal advice and referral service to ensure that applicants to the redress scheme receive free, independent legal advice and make informed decisions about their options in relation to accessing redress and/or civil litigation.	Further consideration required	<p>Should a redress scheme be established, government would intend for the scheme to be easy for applicants to navigate. The scheme's processes would be straightforward, aimed at ensuring applicants can make informed decisions about their course of action. Options will be explored for provision of independent legal advice, support and referral, if required by applicants at any point of the process.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
22	That the Victorian Government consider establishing a redress scheme for people who were forcibly adopted, especially those who were placed in institutions or adopted into unsuitable families.	Support in principle	<p>The Government will fund initial research into the establishment and costs of such a scheme and will then act on the findings of that research.</p>

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23	That the Victorian Government immediately seek to amend the <i>Limitation of Actions Act 1958 (Vic)</i> to exclude those affected by forced adoption from the operation of the limitations period under that Act.	Support in principle	The Government recognises that adoption practices have resulted in significant trauma and injustices for mothers, adopted people and other family members. Mothers and adopted children in particular, have often felt silenced and discouraged from talking about their experiences. It is important that there is accountability and acknowledgement from responsible institutions and organisations. The Government will consider reforms to statutory limitation periods in conjunction with a broader package of reforms, so that claimants are not limited to pursuing civil claims and have a choice between multiple avenues.
24	That the Victorian Government investigate removing the requirement to prove a significant injury has been suffered as a result of the separation of mother and baby in relation to personal injury claims made under the <i>Wrongs Act 1958 (Vic)</i> .	Support in principle	The Government acknowledges that it may be difficult to prove there has been a significant injury in some historical forced adoption cases. The Government will explore reform options in this area in consultation with stakeholders, noting the need to consider broader implications of possible amendments to the <i>Wrongs Act 1958 (Vic)</i> .
25	That the Victorian Government convey that original birth certificates are not valid legal documents in a considerate manner to minimise distress to people who are adopted.	Support in full	The Government will ensure it conveys that original birth certificates are not legal documents in a considerate manner to minimise distress to people who are adopted.
26	That the Victorian Government implement integrated birth certificates without delay, issued to people who are adopted upon request and that they be legal proof of identity of equal status to other birth certificates.	Support in principle	Currently the birth certificate issued after an adoption order removes all evidence of the adopted person's birth parents and replaces them with the names of adoptive parents. This birth certificate becomes the adopted person's legal identification. Many adopted people have asked that their natural parents be reflected on their birth certificate. The Government will introduce legislative amendments to bring about integrated birth certificates.

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27	That the Victorian Government undertake a public education campaign to promote the rights of parents to access adoption records and information about their children.	Support in principle	<p>The Government supports in principle development of a public information campaign so that parents, adopted people and relatives have additional information about how to access records and information. There is information on the Department of Justice and Community Safety website and the Government will develop a new website with enhanced and additional content.</p> <p>The Government will examine and explore a range of options for enhancing public knowledge and awareness about adoption information and records. Consideration will be given to how best to reach people, particularly older adults and those who face additional barriers to receiving information.</p>
28	<p>That the Victorian Government implement Recommendation 86 of the Victorian Law Reform Commission's <i>Review of the Adoption Act 1984 (Vic)</i>:</p> <p>The current requirement for an applicant for access to information to be interviewed by an approved counsellor in section 87 of the Adoption Act should be replaced with an obligation on the Secretary [of the Department of Justice and Community Safety] to:</p> <ul style="list-style-type: none"> a) offer applicants counselling before providing them with access to information b) advise an applicant if the information could reasonably be expected to be distressing to the applicant. 	Support in full	<p>This recommendation has already been implemented in practice.</p> <p>Operational changes since the release of the Victorian Law Reform Commission's Review of the <i>Adoption Act 1984</i> and transition of adoption services from the former Department of Health and Human Services to the Department of Justice and Community Safety have modernised practice to ensure that applicants understand the information contained in their records and gauge their need for further support.</p> <p>This practice satisfies the section 87 requirement. A clarifying legislative amendment will be made to section 87 at the next opportunity, in line with recommendation 28, so that it clearly reflects current practice.</p>
29	That the Victorian Government waive any court costs or fees for a person applying to obtain information that was previously redacted or withheld under the <i>Adoption Act 1984 (Vic)</i> .	Support in full	This recommendation has already been implemented. Where a person is seeking information previously redacted or withheld by an adoption information service under the <i>Adoption Act 1984</i> , they apply to the Court under section 99 of the Act. The Court currently waives this fee, along with a number of other adoption related fees.

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30	That the Victorian Government require the Adoption Information Service to provide a full report on lost or destroyed records and/or adoption information, including the search process and any evidence of destruction, for example, the report of fire or flood.	Further consideration required	<p>This recommendation will be implemented operationally.</p> <p>The Government acknowledges that lost or destroyed records can be a problem for people affected by historical forced adoption, particularly hospital and medical records. In some cases, loss or destruction may have been accidental, such as through fire, flood or during relocation. In others, it may be the result of legitimate document destruction policies. The Government will work with all relevant organisations and institutions to centralise all existing records and provide a full report on lost or destroyed records and/or adoption information, including the search process and any evidence of destruction.</p> <p>The Department of Justice and Community Safety Adoption Information Service currently supports applicants to locate their adoption records and adoption-related hospital and medical records and provides information to the individual. The Government will determine the best way of providing written information to an applicant and enact changes within the next six months.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
31	That the Victoria Government cease the operation of adoption information services within approved agencies and centralise Victoria's Adoption Information Service.	Support in full	<p>This recommendation has already been implemented.</p> <p>On 1 October 2021, the Secretary of the Department of Justice and Community Safety ceased to authorise adoption agencies under the <i>Adoption Act 1984</i>. Adoption Services, as the Secretary's delegate, is the guardian of all children available for adoption in Victoria and decides which adoptive families are approved to adopt, as well as releasing records and information to applicants for adoption information.</p> <p>Agencies continue to provide a range of services to children and families, such as counselling to parents considering placing their child for adoption, assessing people wanting to adopt and post placement supervision and support, but they do so as funded service providers.</p> <p>This centralised decision-making model is consistent with recommendations made in the Victorian Law Reform Commission's Review of the <i>Adoption Act 1984</i> report as well as the delivery of adoption services in other Australian jurisdictions.</p>

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32	That the Victorian Government fund the Victorian Adoption Network for Information and Self Help on an ongoing and flexible basis to ensure the provision of a comprehensive post-adoption support service in Victoria.	Further consideration required	<p>The Victorian Government is committed to the provision of comprehensive post adoption support services which include mental health/support, training, finding historical information, search, outreach and intermediary support, and peer support groups.</p> <p>The Victorian Government currently supports post adoption support services with funding of \$0.823 million provided in 2021-22 as well as services provided directly through the Department of Justice and Community Safety. Some services have been provided since 1989 through the Victorian Adoption Network for Information and Self Help (VANISH) and funding for this service is currently provided through to 2023-24. Other services are provided through agencies that hold adoption records. The Commonwealth Government also funds support services to people affected by historical forced adoptions through services such as Relationships Australia Victoria.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p> <p>If the required funding is available, the Victorian Government will review all post adoption support service provided in Victoria with a view to inform new and current services, funding arrangements, how service providers are selected, outcome measures and coordination with Commonwealth services.</p>
33	That the Victorian Government clarify and clearly publicise the rights of people to access current information from the Births, Deaths and Marriages Register that may contain identifying information about other people.	Support in full	<p>The Government will ensure clear information and guidelines are published on a website so that people are aware of their rights in relation to accessing information from the Births, Deaths and Marriages Register and privacy related matters.</p>

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34	That the Victorian Government waive Births, Deaths and Marriages' search and certificate costs for people affected by forced adoption	Support in principle	The Government is considering waiving Births, Deaths and Marriages' search and certificate costs for people affected by forced adoptions and is reviewing current legislative provisions and policies.
35	That the Victorian Government endorse the use of DNA testing and develop practices guidelines to support its use as a search tool.	Further consideration required	<p>The Government acknowledges that DNA testing can play a role in people becoming aware of their adoption, as well as how people affected by adoption search for family members. The modern reality of commercially available DNA testing will be considered in planning for any service improvements to support people searching for family. The <i>Adoption Act 1984</i> may need to be amended to fully implement this recommendation.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
36	That the Victorian Government explore opportunities to notify a natural parent if their child dies and an adult adopted person if their parent dies, taking into account any privacy concerns for all relevant parties.	Further consideration required	Substantial consultation is required to consider the impact of this recommendation on a range of parties who might be affected, noting that it will cover natural parents in intercountry adoptions, and some people who may not wish to be notified. The technical feasibility of implementing this reform will also need to be explored.
37	That the Victorian Government offer specialist adoption-informed counsellors and support workers to people reuniting with family, including as they build their relationship in the post-reunification period.	Further consideration required	<p>The Victorian Government agrees that the provision of specialist adoption-informed counselling and support workers is important to support Victorians affected by historical forced adoption throughout the reunification process.</p> <p>The Victorian Government currently supports post adoption support services, with funding of \$0.823 million provided in 2021-22. This funding is used to search for information or family on behalf of people affected by adoption and provide emotional support for people who are seeking adoption information or reconnecting with family.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>

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38	<p>That the Victorian Government provide ongoing funding to the Victorian Adoption Network for Information and Self-Help (VANISH) to deliver a low-cost, or preferably free, state-based specialised mental health support service for people affected by historical forced adoptions. The Victorian Government consider the following factors when funding the service:</p> <ul style="list-style-type: none"> • people should be able to access support on an ongoing and flexible basis, including episodically in recognition that the negative effects of historical forced adoption are lifelong and can be triggered at different times • it should offer alternative mental health services outside of traditional therapy, for example art therapy • it should build upon VANISH's existing brokerage system and register of trauma-informed and specialised counsellors and other health professionals. 	Further consideration required	<p>The Victorian Government acknowledges the need to provide specialist adoption-related mental health supports for Victorians affected by historical forced adoptions, as the negative effects can be lifelong. The Victorian Government is open to considering alternative therapy initiatives if they are proven to improve outcomes for recipients.</p> <p>The Victorian Government currently supports post adoption support services, with funding of \$0.823 million provided in 2021-22. This funding is used to support Victorians with a network of approved counsellors maintained through the Victorian Adoption Network for Information and Self Help (VANISH).</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p> <p>If the required funding is available, the Victorian Government will review all post adoption support service provided in Victoria with a view to inform new and current services, funding arrangements, how service providers are selected, outcome measures and coordination with Commonwealth services.</p>
39	<p>That the Victorian Government ensure its funding to Victorian Adoption Network for Information and Self Help (VANISH) to deliver mental health and emotional support services as proposed in Recommendation 38 include a specific allocation of funding for the regular provision of VANISH training to health professionals.</p>	Further consideration required	<p>The Victorian Government recognises the importance of health professionals having access to information and training about historical forced adoptions so they can provide patients with enhanced support and care. Information and training will also enable health professionals to advise their patients of complementary services funded by the Commonwealth Government.</p> <p>The Victorian Government notes that recommendation 40 aims to achieve similar goals and any future policy will consider both recommendations 39 and 40.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>

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No.	Recommendation	Response	Considerations
40	That the Victorian Government facilitate the delivery of the Australian Psychological Society training among health professionals throughout Victoria.	Further consideration required	<p>The Victorian Government acknowledges that understanding and responding to trauma is a core capability for the mental health and wellbeing workforce and will be a priority focus as part of the larger mental health reforms currently taking place in Victoria.</p> <p>The Commonwealth Department of Health funded the Australian Psychological Society (APS) in 2014 to develop training courses and materials on forced adoption for health providers and, three training modules were completed and published in 2016. The Department is currently funding the APS to refresh the existing training modules with the aim of increasing the referral pool of appropriately qualified professionals.</p> <p>Whilst APS has historically delivered training to health professionals about how to work with people that have experienced forced adoption, a review would need to be undertaken to understand if the refreshed content is contemporary and appropriate and if this incorporates lived experience expertise.</p> <p>The Victorian Government notes that Recommendation 39 aims to achieve similar goals and any future policy should consider both recommendations 39 and 40.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p> <p>The Commonwealth provided feedback to the Government response noting that action is already underway by the Commonwealth to update and subsidise the specialist training and resources delivered to professionals working with people affected by Australia's past forced adoption policies and practices nationwide.</p> <p>The new training modules will supersede the previous training modules and will be accompanied by a communication strategy to target up to 100 psychologists and 50 General Practitioners nationally to complete the training.</p>

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No.	Recommendation	Response	Considerations
41	That the Victorian Government require staff at Births, Deaths and Marriages to participate in the Victorian Adoption Network for Information and Self Help professional training on past and forced adoption practices.	Support in principle	The Victorian Government agrees that staff at the Registry of Births, Deaths and Marriages Victoria who assist people affected by historical forced adoptions should participate in training about past and forced adoption practices. Existing resources and training modules will be reviewed to consider if any changes are required.
42	That the Victorian Government designate a specialist staff member at Births, Deaths and Marriages with responsibility for overseeing adoption-related information requests.	Support in full	The Government supports the recommendation, noting that the Registry of Births, Deaths and Marriages Victoria (BDM) currently employs a staff member who has responsibility for overseeing adoption-related information requests.
43	That the Victorian Government consider how to raise awareness about the effects of historical forced adoption in the community services sector, including through the provision of Victorian Adoption Network for Information and Self-Help training to staff employed in state funded services.	Support in principle	The Government considers raising awareness of historical forced adoption in the Victorian community services sector is important. This could be achieved through a variety of measures such as the utilisation of existing groups, networks or platforms. The Government encourages the use of trauma informed approaches in all Victorian community service organisations.
44	That the Victorian Government, in consultation with key stakeholders, review the operation of the current peer support group network for historical forced adoption, with the aim of enhancing the network across Victoria.	Support in principle	<p>The Government acknowledges the benefits of enhancing the peer support network currently operating in Victoria to allow people affected by historical forced adoption to more easily find and support each other.</p> <p>The Government will undertake a review of the post adoption support system currently operating in Victoria, including peer support groups.</p>

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No.	Recommendation	Response	Considerations
45	That the Victorian Government develop guidelines and funding criteria for the establishment of independent forced adoption peer support groups.	Support in principle	The Government is supportive of Victorians affected by historical forced adoption forming and building their own support groups. The Government will develop guidelines and funding criteria as required or appropriate for the establishment of independent forced adoption peer support groups.
46	That the Victorian Government require Anglicare Victoria, CatholicCare, Uniting Vic.Tas and Children and Family Services to publicly report on the number of adoption referrals made or counselling provided each year.	Support in full	<p>This recommendation is currently being implemented as part of an ongoing reform program which commenced in July 2019 when responsibility for Adoption Services transitioned to the Department of Justice and Community Safety (DJCS).</p> <p>This transition enabled the department to improve reporting of adoption data, noting the Victorian Law Reform Commission's review of the <i>Adoption Act 1984</i> observed that Victorian adoption agencies did not maintain consistent, comprehensive state-wide data on adoption services.</p> <p>Ongoing information technology system improvements, which will be completed in January 2022, will enable the Department of Justice and Community Safety to accurately maintain and report adoption data.</p>
47	That the Victorian Government publicly report on the Department of Justice and Community Safety's website the numbers of adoption referrals, applications and children placed for adoption each financial year, as well as other key statistics such as the type of adoption, the contact and information exchange conditions in adoption orders, and the age and cultural background of children and parents.	Support in part	<p>This recommendation is currently being implemented.</p> <p>Victoria, along with all jurisdictions, provides data annually to the Australian Institute of Health and Welfare for publication in its report <i>Adoptions Australia</i>.</p> <p>Ongoing information technology system improvements, which will be completed in January 2022, will enable the Department of Justice and Community Safety to accurately maintain and report adoption data. It is anticipated that publication of this de-identified data will be part of improvements to the adoption information on the website (see recommendation 12). This will include key statistics such as the children placed for adoption, the number of adoption applications, as well as the type of adoption, and other information that can be reported while maintaining critical privacy and confidentiality.</p>

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No.	Recommendation	Response	Considerations
48	That the Victorian Government monitor the cultural and linguistic diversity of parents considering placing their child for adoption and consider whether more specialised, culturally appropriate support is required.	Support in full	<p>This recommendation has already been implemented.</p> <p>The Department of Justice and Community Safety maintains data about all children available and placed for adoption in Victoria, including the cultural and linguistic diversity of parents considering placing their child for adoption. It is often not possible to match a child with parents from the child's birth culture. The Department of Justice and Community Safety dedicates significant resources to identifying and developing the capacities of people who can parent children who need adoption, including children from culturally and linguistically diverse backgrounds and children with additional needs such as complex medical conditions. Support is provided as needed after placement with adoptive parents.</p>
49	That the Victorian Government seek to amend the Aboriginal and Torres Strait Islander Child Placement Principles in the <i>Adoption Act 1984</i> (Vic) to be consistent with the <i>Children, Youth and Families (Permanent Care and Other Matters) Act 2014</i> (Vic), as recommended by the Victorian Law Reform Commission.	Support in principle	<p>The Government acknowledges that government policies and practices have significantly affected Aboriginal and Torres Strait Islander people and communities. The development of Victorian laws, policies, systems and structures explicitly excluded Aboriginal people and their laws, culture, customs and traditions, resulting in and entrenching systemic and structural racism.</p> <p>The Secretary of the Department of Justice and Community Safety is the guardian of all children placed for adoption. The Government's practice for adoption of a child where Aboriginal or Torres Strait Islander heritage is identified is consistent with the <i>Aboriginal Child Placement Principles in the Children, Youth and Families Act 2005</i>.</p> <p>The Government will explore if further reform is required in consultation with stakeholders, noting the need to consider broader implications of possible amendments to the <i>Adoption Act 1984</i>.</p>

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No.	Recommendation	Response	Considerations
50	<p>That the Victorian Government provide adequate resourcing to ensure the Aboriginal and Torres Strait Islander Child Placement Principles under the <i>Adoption Act 1984 (Vic)</i> and <i>Children, Youth and Families (Permanent Care and Other Matters) Act 2014 (Vic)</i> are effectively implemented.</p>	<p>Further consideration required</p>	<p>Aboriginal Children in Aboriginal Care (ACAC) recognises the needs of Aboriginal children are best met by Aboriginal community services that are culturally attuned. Aboriginal Community Controlled Organisations (ACCOs) are also best placed to reconnect Aboriginal children and families to culture where there has been a disconnection. Section 18 of the Children, Youth and Families Act 2005 enables government to authorise the principal officer (CEO) of an Aboriginal agency to undertake specified functions and powers in relation to a Children's Court protection order for an Aboriginal child or young person, including responsibility for the child's case management and case plan.</p> <p>Since being piloted in 2013, the number of Aboriginal children authorised to an ACCO has grown steadily. Further expansions to ACAC across the state are planned, subject to availability of funding.</p> <p>The Children, Youth and Families Amendment (Child Protection) Bill 2021, which is currently before Parliament, seeks to legislate all five elements of the Aboriginal child placement principle: prevention, partnership, participation, placement and connection. The Bill will modernise the Act and support a focus on early intervention, protection and diversion. It will promote permanency for children and elevate the rights of the child, including the cultural rights of Aboriginal children. Embedding these principles in the Children, Youth and Families Act will help drive child protection practice with Aboriginal children and families towards better outcomes.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
51	<p>That the Victorian Government conducts further research into the level of contact and information exchange between children who are adopted and parents in the context of open adoption in Victoria.</p>	<p>Further consideration required</p>	<p>The Government acknowledges the value of research into whether adoption in Victoria is accompanied by the provision of appropriate contact and information exchange.</p> <p>Legislative change is required to enable qualitative research into the effects of adoption to be undertaken.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>

Government Response to the Recommendations of the Inquiry into responses to historical forced adoption in Victoria

No.	Recommendation	Response	Considerations
52	That the Victorian Government mandate the use of adoption plans to facilitate identity cohesiveness and continuity for people who are adopted through the right to know natural parents and ongoing contact with their natural family and community.	Support in principle	<p>This recommendation has already been implemented.</p> <p>Adoption plans are included in the Adoption Regulations 2019 as a requirement for all adoptions in Victoria. Prospective adoptive parents are assessed based on a range of factors, including their appreciation of the importance of an adoption plan for the child.</p> <p>Reforms which came into effect on 1 October 2021 will ensure adoption plans are embedded in practice across Victoria.</p> <p>Amendments would be required to mandate adoption plans in legislation. This will be considered if there are broader reforms to the <i>Adoption Act 1984</i>.</p>
53	That the Victorian Government seek to amend the <i>Adoption Act 1984 (Vic)</i> to retain original birth certificates for people who are adopted in the future.	Further consideration required	<p>A birth certificate is a primary document that establishes a person's legal identity.</p> <p>The birth certificate of an adopted person shows the adoptive parents as the child's legal parents. Implementing this recommendation would require a fundamental change to the practice of adoption, which is based on a change of legal parentage. This change will be further considered if the Government decides to undertake broader reforms to the <i>Adoption Act 1984</i>.</p> <p>The Government is also exploring the introduction of Integrated Birth Certificates (IBCs) as outlined in recommendation 26.</p>

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No.	Recommendation	Response	Considerations
54	<p>That the Victorian Government seek to implement the legislative amendments recommended by the Victorian Law Reform Commission in regard to consent provisions in the <i>Adoption Act 1984</i> (Vic). This includes increasing efforts to identify the father of a child, extending the period to revoke consent, ensuring that a parent under 18 has the capacity to provide informed consent and restricting grounds for dispensing consent.</p>	<p>Support in principle</p>	<p>The Victorian Law Reform Commission observed that since its enactment, amendments to the <i>Adoption Act 1984</i> have made it complex and difficult to navigate. Rather than making further amendments, the Commission recommended that the Act should be repealed and replaced by a new Adoption Act. The measures included in Recommendation 54 will be considered further if the Government agrees to undertake broader review and reform of the <i>Adoption Act 1984</i>.</p> <p>Over the past twelve months, sweeping reforms have been made to Adoption Services. These changes have resulted in the centralisation of decision making to ensure better oversight and consistency and the Secretary of the Department of Justice and Community Safety has assumed guardianship of all children available for adoption.</p> <p>A range of reforms have also been introduced since the current Act came into effect to identify the father of a child, extend the period to revoke consent, ensure a parent under 18 has the capacity to provide informed consent and restrict the grounds for dispensing of consent. These changes are outlined below.</p> <p>Efforts to identify the father of a child: at the time of options counselling and before consent is signed, to obtain his consent to the adoption, and to include his details on the birth certificate and in the adoption records for the child's future knowledge.</p> <p>Extending the period to revoke consent: It is important for a child's wellbeing that they be placed in a stable home as soon as possible. However, where a natural parent's circumstances change or they change their mind, the finality of the revocation period is not harshly enforced. While the best interests of the child are the paramount consideration, the natural parent's needs are also supported.</p> <p>Ensuring that a parent under 18 has the capacity to provide informed consent: where a parent under 18 is considering relinquishing their child, the options counsellor is required to undertake a capacity assessment. This is carried out by an appropriately qualified and independent person.</p> <p>Restricting grounds for dispensing consent: this would require a change to the <i>Adoption Act 1984</i> and would need to be considered as part of a broader review of the legislation.</p>

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No.	Recommendation	Response	Considerations
55	That the Victorian Government ensure community organisations providing family and parenting support are adequately resourced to ensure permanency for children.	Further consideration required	<p>The Government has invested heavily in family services in recent years, including an investment of \$335 million over 4 years in the 2020-2021 budget as part of the Family Preservation and Reunification Response under the Roadmap for Reform: Strong Families, Safe Children reform strategy.</p> <p>The services now have greater capacity and a stronger evidence base for their effectiveness. Further expansion will occur as needed, subject to the availability of funds.</p> <p>Implementation of this recommendation will require investment above existing levels. Support for this recommendation is subject to further consideration by government as part of a future budget process.</p>
56	That the Victorian Government remove adoption from the permanency hierarchy in the <i>Children, Youth and Families (Permanent Care and Other Matters) Act 2014</i> (Vic) and restrict the use of adoption on child protection grounds as far as practicable.	<p>a) Further consideration required</p> <p>b) Support in full</p>	<p>a) The Government is considering further the permanency objective of adoption in the <i>Children, Youth and Families Act 2005</i> in the context of other possible amendments to that Act's permanency provisions that arise from the Permanency Amendments Longitudinal Study recently undertaken by Melbourne University.</p> <p>b) The Government supports amending section 43(1) of the <i>Adoption Act 1984</i> relating to use of adoption on child protection grounds.</p>