



38 Derwent Street  
Island Bay  
Wellington 6023  
Aotearoa New Zealand

## ADOPTION NEWS AND VIEWS 1-15

December 2015

**Adoption News and Views** is an occasional e-newsletter produced on behalf of Adoption Action Inc. It aims to provide information about adoption of children and about any legal and policy developments affecting adopted children, parents who surrender a child for adoption, and people who adopt a child. It also provides progress reports on any proposed changes to adoption law, and on efforts by individuals and groups pressing the government to give a higher priority to enacting new legislation.

There is an urgent need to replace the out-of-date Adoption Act 1955 and other adoption laws, so as to bring them into line with the Convention on the Rights of the Child and the anti-discrimination provisions in the Human Rights Act 1993 and NZ Bill of Rights Act 1990. Adoption developments overseas are also covered.

It is hoped the newsletter will provide a forum for people to discuss adoption issues. Contributions are invited, including reviews of books, films, and so on touching on adoption. While the aim is to provide an open forum, the editors reserve the right to decline or abridge any contributions submitted.

In the past the Newsletter has been sent out several times each year. This year we have held back Newsletters in the expectation that a decision on Adoption Action's application to the Human Rights Tribunal that was filed in July 2011 and heard over a two-week period in November 2013 and January 2014 would be given. It now seems that a decision is unlikely until sometime in 2016. More about the delay is provided below.

**Adoption News and Views** is sent to you because you are believed to be a person interested in adoption. If you do not wish to receive further issues, please email Robert Ludbrook at the address below. Back issues can be viewed on the Adoption Action website: [www.adoptionaction.co.nz](http://www.adoptionaction.co.nz)

Let us hope that 2016 is the year in which our government finally tackles the issue of adoption reform. It is 60 years since the Adoption Act was passed and 15 years since the Law Commission made more than 100 recommendations for reform of the Act. Many other countries have modernised their adoption laws. Under former Labour-led governments a lot of preparatory work was done, proposals were put to Cabinet on two occasions and an Adoption Bill was drafted but the matter was then dropped for reasons that have never been made public. There have been three Ministers of Justice since the current National-led government came in to power and all have stonewalled, saying adoption reform is "not a current priority."

New Zealand boasts of its great record on human rights but governments have not acted on recommendations made by the United Nations Committee on the Rights of the Child made in 2003 and 2011. The New Zealand delegation gave an assurance to the Committee in 2003 that it was about to update our adoption laws but in its latest report filed this year told the Committee that adoption reform is not a priority. New Zealand has to appear before the UN Committee again in February this year and is likely to face criticism for its failure to meet its obligations to children affected by adoption.

Many people in the past have suffered as a result of adoption laws and policies and current adoption laws continue to cause pain and suffering to those affected.

Our Chairperson Fiona Donoghue and members of our Committee wish all our readers and their families a relaxing and enjoyable Christmas break.

**Robert Ludbrook and Anne Else - Editors**  
r\_ludbrook@hotmail.com

## CONTENTS

ADOPTION ACTION - EDITORIAL	3
NEW ZEALAND NEWS	4
UNICEF critical of government inaction on adoption reform	4
New Zealand Law Society speaks out on adoption reform	4
NZ Law Commission expresses concern that its recommendations have not progressed	5
Ministry of Justice Annual Report 2015 (extracts)	5
INTERNATIONAL NEWS	6
Force, fraud and coercion in intercountry adoptions	6
Intercountry adoption: an international viewpoint	6
France recognises rights of surrogate children	6
United Kingdom	7
Motion on forced adoptions tabled in British House of Commons	7
Greece	8
Australia	8
ADOPTION CASES	9
New Zealand	9
United Kingdom	11
ADOPTION VIEWS – REQUESTS FOR INFORMATION	11
Unmarried mothers	11
Open adoption agreements	11

***Adoption News and Views*** is sent to you because you are believed to be a person interested in adoption. If you do not wish to receive further issues, please email Robert Ludbrook.  
[r\\_ludbrook@hotmail.com](mailto:r_ludbrook@hotmail.com)

## ADOPTION ACTION - EDITORIAL

### New Zealand's continuing default under UN Convention on the Rights of the Child

New Zealand ratified the United Nations Convention on the Rights of the Child (UNCROC) on 6 April 1993. The Convention requires each ratifying country to submit to the UN Committee on the Rights of the Child (UNCRC) regular reports on the measures it has adopted to give effect to the rights conferred on children by the Convention.

An initial report has to be filed two years after ratification and periodic reports must then be filed at five-yearly intervals: art 44.1 UNCROC.

Reports must contain sufficient information to provide the Committee with a comprehensive understanding of the implementation of the Convention in the country concerned: art 44.2. The Committee may make suggestions and general recommendations on matters arising from the information supplied by a ratifying party.

At the time of ratification New Zealand entered no reservations to UNCROC relating to adoption law and practice. This means New Zealand governments have fully accepted their obligation to comply with all recommendations in respect of adoption law and policy made by the UNCRC.

It is of interest to review the recommendations of the UN Committee on the Rights of the Child in the 22 years since ratification.

#### 1. Recommendations following New Zealand's initial report (1997)

The UNCRC's concluding remarks on New Zealand's initial report recommended that government "pursue the process of bringing existing legislation into line with the principles and provisions of the Convention": para 23. There were no recommendations specific to adoption: CRC/C/15/ADD.71, 24 January 1997.

#### 2. Recommendations following New Zealand's second report (2003)

The UNCRC's report contains a separate section on adoption. The Committee welcomed the government's advised intention to reform its adoption legislation but expressed concern that the planned changes (presumably those recommended by the Law Commission in its 2000 report) did not fully conform to the principles of UNCROC and the Hague Adoption Convention on Intercountry Adoption (which NZ acceded to with effect from 1 November 1999). UNCRC made specific recommendations that:

- the consent of children of a certain age be required to their adoption;
- adopted children be given a right to access information about their biological parents;
- adopted children be able to maintain one of their original first names: CRC/C/15/ADD.216, 3 October 2003.

#### 3. Recommendations following New Zealand's third and fourth combined report (2011)

The Committee expressed regret that the government's proposed review of adoption laws was on hold and recommended that it be progressed. It repeated its recommendation that children be required to consent to their adoption and that the age at which children have access to their adoption files be lowered from 20 to 18 years: CRC/C/NZL/3—4, 19 January 2011.

New Zealand's fifth report was filed this year and the government's representatives will have to appear before the Committee in February 2016. Having been reminded in 2003 and 2011 that NZ is in default of its UNCROC obligations, one might have expected some explanation from government in its fifth report for its failure and a commitment to give priority to reforming adoption laws.

The fifth report does not give any explanation why adoption reform is still on hold nor does it respond to the specific recommendations in the Committee's 2003 and 2011 reports. The NZ report merely states that:

*"A review of adoption law is on hold because of competing priorities for law reform in the justice sector. The matters raised by the Committee will be considered when the legislation is reviewed."*

This uninformative and dismissive statement is tantamount to a response that government will make changes to adoption law that it chooses to make at a time that it finds convenient. The current government is in open defiance of the UN Committee on this issue. Its negative response breaches the letter and spirit of UNCROC. It is particularly offensive in the light of the assurance given to the Committee 13½ years ago that NZ was about to embark on major reform of the 1955 Adoption Act.

## NEW ZEALAND NEWS

### UNICEF critical of government inaction on adoption reform

The New Zealand branch of UNICEF, a specialist agency within the United Nations, in its publication *Kids Missing Out* marking the 20th anniversary of New Zealand's ratification of the United Nations Convention on the Rights of the Child, was strongly critical of New Zealand's failure to meet its obligations under the Convention. It singled out adoption reform as an area that needed to be addressed: *Kids Missing Out: It's time to make progress on children's rights UNICEF New Zealand* (2013) at 4, 14.

### New Zealand Law Society speaks out on adoption reform

The forthcoming 60th anniversary on 27 October 2015 of the entry into force of the Adoption Act 1955 was marked by the New Zealand Law Society with an article in *Law Talk* 865, 22 May 2015 in which Massey University School of Psychology lecturer, Dr Denise Blake, Chair of the Society's Family Law Section, Dr Allan Cooke, Law Professor Bill Atkin, Green Party MP Kevin Hague, were critical of the archaic state of the 1955 Act and the failure of governments to move on adoption reform. Points made were:

- The Adoption Act is outmoded and needs to be brought up to date. The Act was passed well before New Zealand ratified the United Nations Convention on the Rights of the Child and does not take into account the cultural and ethnic background of the child being adopted. Children may be denied the right to enjoy their own culture and language and trace their lineage. Also, children who want to know who they are and where they have come from cannot get access to their original birth certificate until they attain the age of 20 years. They are thus deprived of knowledge of their natural family and the right to maintain personal relationships with them. There is no provision for the voice of the child to be heard as the Act does not allow for the appointment of lawyer for child: Dr Allan Cooke;
- The "unjust, inhumane and archaic" Adoption Act 1955 created a legal fiction with regard to an adopted person's identity, and it also severed any ties with birth families, Adoptees have a constructed identity where they are "born to" a new family, which renders their birth parents as insignificant. The legislation fails to recognise the child's relationship with his/her birth parents – it was an attempt to overcome illegitimacy: Dr Denise Blake;
- The 1955 Act has, at its heart, a wrong assumption. It effectively fossilises attitudes towards children that prevailed in the 1950s. Children are treated in law as the property of their parents, and the process of adoption is constructed in the manner of a property transaction. There are two reasons why successive parliaments have not dealt with adoption reform. The first is the slow evolution of societal values over the last 60 years rather than a specific "incident" that has demonstrated the failure of the law. The other is that (at least until 2013)

politicians from both Labour and National have been scared of the issue because of the highly polarised views about adoption by same-sex couples: Kevin Hague Green MP.

### **NZ Law Commission expresses concern that its recommendations have not progressed**

In the New Zealand Law Commission's Annual Report for the year to 30 June 2015 the President Sir Grant Hammond expresses concern about the lack of progress on some historic Law Commission recommendations that could deliver significant benefits to New Zealand. He refers specifically to the Commission's recommendations in areas such as compulsory treatment of substance dependence, mental impairment decision-making (in 2010 reports), the review of privacy law (2011) and a number of recommendations from its 2012 review of official information legislation.

Surprisingly there is no reference to the Law Commission's detailed 2000 report *Adoption and Its Alternatives: A different approach and a New Framework* which made more than 100 recommendations for changes to adoption laws including a proposal that adoption laws be harmonised with other laws relating to the guardianship, day-to-day care of, and parental contact with, children.

### **Ministry of Justice Annual Report 2015 (extracts)**

#### **Introduction**

"The Ministry of Justice is unified by a single purpose – to provide justice services to the people of New Zealand."

"We support an array of tribunals from Disputes through to the Waitangi Tribunal."

#### **Modernising courts and tribunals**

"Since 2012, we have been working with the judiciary to modernise courts and tribunals **to get people through the justice system quicker**. We started this work because our services were old-fashioned and not what the government and New Zealanders expect from a modern, accessible, people-centred justice system. The Ministry had expanded significantly, taking on more than 15 new functions between 2005 and 2011, and many business units were operating independently."

"This modernisation is a long-term strategy and an unprecedented period of change for the Ministry, which we are undertaking while maintaining business as usual services. **We are aiming for a 21st century justice system where people access justice in the way they expect. Processes will be fast and easy to understand, and the most serious cases will receive the most attention and support.**" "We are working with our stakeholders and designing changes to respond to our customers' needs. Our goals are to:

- **reduce the time it takes to hear and resolve matters**
- **improve the customer experience**
- **simplify and standardise in order to improve productivity and efficiency.**"

#### **Performance framework**

**"International justice obligations upheld."**

Editor's comment: Fine words, but how is it that the Human Rights Tribunal has failed to hand down a decision in an important case heard two years ago? And how can it be said that "international justice obligations will be upheld" when NZ's fundamental obligations under UNCROC have been ignored despite the recommendations of the UN Committee on the Rights of the Child in 2002 and 2011. The Ministry of Justice is the Ministry responsible for adoption legislation.

## INTERNATIONAL NEWS

### Force, fraud and coercion in intercountry adoptions

The International Institute on Social Studies has released a working paper *Force, Fraud and Coercion: the current state of knowledge about illicit adoptions*. The paper contrasts the notion that intercountry adoption (ICA) is a triple win situation where the biological family, the adoptive family and the child all benefit, with another scenario in which serious and persistent problems of adoption fraud and “child laundering” jeopardise many such adoptions. Illicit activities include the use of force, fraud or payment for children that circumvent good decisions about the ‘adoptability’ of a child by making the child appear to be legitimately available for intercountry adoption.

It is argued that the child, the family of origin, and the adopting family are all being exploited in the laundering process: the children are stripped of their identity and sold into ICA, and a number of their human rights are abused. Children are presented orphans when, in fact, they have biological family who have been exploited in the process of child laundering.

Illicit practices in countries such as Cambodia, South Korea, Ethiopia, Uganda, Guatemala and India (where there are examples of children being abducted in public places) are considered.

Source: International Institute of Social Studies Working Paper 600 December 2014.

### Intercountry adoption: an international viewpoint

New Zealanders adopt a number of children each year from countries that are parties to the Hague Convention on Intercountry Adoption and one can feel confident that there are checks on such adoptions because both the overseas country and New Zealand are bound by their Convention obligations and compliance is overseen by the Central Authority in the child’s country of residence and by the NZ Central Authority.

However, significantly more children are adopted by New Zealanders from countries that are not parties to the Convention and such adoptions are scrutinised neither by the Family Court nor by Child, Youth and Family Adoption Services. That is because the prospective adoptive parents travel to the child’s home country and obtain an adoption there. The adoption has the same effect as a New Zealand adoption order by reason of s 17 Adoption Act 1955.

While statistics on New Zealand domestic adoptions are no longer collected and published in the New Zealand Yearbook, and there are no figures for intercountry adoptions of children from non-Hague countries, the New Zealand Central Authority collects statistics for adoptions by New Zealanders of children from other countries that have ratified the Hague Adoption Convention. In the year to 30 June 2014 there were 44 such adoptions that included 11 of children from Thailand, 14 from Tonga, 6 from the Philippines and 3 each from India and the United States. Of the annual total of 44, 28 were adoptions by relatives of the child and 20 were of children with special needs. These figures do not include surrogacy adoptions: see

[www.hcch.net/en/publications-and-studies/details4/?pid=5068&dtid=32](http://www.hcch.net/en/publications-and-studies/details4/?pid=5068&dtid=32)

### France recognises rights of surrogate children

On 6th July 2015 France's Cour de Cassation ruled that children born to overseas surrogate mothers have the right to have their births and citizenship recognised by the state. This was a landmark for France, which had an outright ban on surrogacy and left such children in legal limbo. They did not previously have any legal status, being denied a legal connection to their parent(s), entitlement to a passport, and welfare benefits such as healthcare.

“Children should not have to answer for their method of conception. They have a right to their civil status and to an identity” commented France’s justice minister **Christiane Taubira**, who also introduced the country’s same-sex marriage legislation.

In 2014, the European Court of Human Rights ruled that the refusal by the French authorities to register the birth of a child born overseas to a French parent contravenes the right of the child to establish an identity. The Cour de Cassation decision was concerned with separate cases of two gay men who had fathered children born to surrogates in Russia. Over the last ten years the French courts had repeatedly refused to recognise surrogate children, referring to them as having been born through a “fraudulent process”. However, in the latest ruling, it was stated that: “Surrogate motherhood alone cannot justify the refusal to transcribe into French birth registers the foreign birth certificate of a child who has one French parent.”

While some commentators hoped that the ruling could lead to greater acceptance and easier lives for people in “new” family forms, others argued that the Cour de Cassation decision did not go far enough, as only the biological father and the birth mother will be named on French birth certificates. The battle will be to allow full adoption rights to the ‘second’ father, in the case of gay couples, or to the ‘social’ mother, in the case of heterosexual couples who have turned to surrogacy.

Source: Kirsty Oswald BioNews 809

## United Kingdom

Scottish mothers may claim under European Convention on Human Rights for forced adoptions.

An international expert yesterday warned that Scotland could face a torrent of human rights cases over its forced adoption legacy. Professor Miriam Stevenson says thousands of Scottish mothers could take legal action under the European Convention on Human Rights.

More than 50,000 Scottish women were forced to give up their children between the 1940s and the 1980s. More than 50,000 single mums were pressured into surrendering their babies for adoption because they were not married. Many were denied the opportunity to see or touch their child and were not even allowed to have a photo. Single mothers would often be treated differently in hospital from married mothers, being segregated, refused pain relief and made to feel they had done wrong. They might have had pillows put over their faces during childbirth so they could not see their baby. Babies were sometimes taken away while the mother was still sedated. Some mothers were deliberately not told about their right to withdraw their consent.

Source: Daily Record 14 April 2015, 28 July 2015

## Motion on forced adoptions tabled in British House of Commons

A motion was tabled in UK Parliament on 26 October 2015 by Allen Graham primary sponsor and five other MPs. The motion was:

“That this House recognises the suffering caused by forced child adoptions during the 1950s, 1960s and 1970s, which took place due to social pressures on women who had children outside of marriage; notes the unacceptable adoption and care practices of the past, such as not giving information about welfare services, including housing and financial help which were available at the time, and not questioning whether women putting their children up for adoption had given informed consent; further recognises the negligence of previous governments with regard to ensuring that the care provided for unmarried mothers was appropriate and that they and their children were not mistreated or discriminated against, resulting in many women suffering traumatising pre and post-natal experiences, and children being denied contact with their birth parents; and calls on the Government to apologise in order to go some way toward helping the parents and children who were victims of these practices.”

## Greece

### Arrests of persons selling Bulgarian babies to Greek childless couples

Seven people have been arrested in northern Greece for being part of an illegal adoption ring that sold babies from Bulgaria to childless couples in neighbouring Greece. The arrests were made after police officers posing as an adoption-seeking couple negotiated the sale of a 21-day-old baby boy for 10,000 euros (\$12,800). The suspects included the child's Bulgarian mother, a lawyer and notary public from Greece. Two other Greek suspects were accused of organising at least ten other illegal adoptions since 2007: Associated Press.

## Australia

### Commonwealth

#### New Intercountry Adoption Service

A new Intercountry Adoption Australia service was launched on 17 May 2015 with a new national website and telephone information line for families adopting a child from overseas. The address is: [www.intercountryadoption.gov.au](http://www.intercountryadoption.gov.au)

This was the result of an initiative by former Prime Minister, Tony Abbott, to streamline the overseas adoption process. He wanted to cut the average five-year wait for overseas adoptions. Abbott also advised that there would be an overhaul of Australia's adoption system. Agreements have since been made with Poland and Latvia and are being negotiated with Kenya, Bulgaria and Cambodia, Source: Sunday Telegraph 24 January 2015.

#### Australia in 2014 had the lowest recorded rate of domestic and intercountry adoptions

The Australian Institute of Health and Welfare has reported that in 2014, 317 adoptions were granted being the lowest annual number of adoptions on record. This represented a drop of nine per cent on the 2013 figure. The report noted there had been a 76 per cent decline in adoptions in Australia in the last 25 years. About a third of all adoptions (114), were of children from overseas but that number was falling too. In 2014, the most common countries of origin for adoptions were Taiwan, followed by the Philippines and South Korea with 89 per cent of all overseas adoptions coming from Asia.

### South Australia

#### Exhibition on past adoption practices

An exhibition *Without Consent: Australia's past adoption practices* was held in the Canberra office of Australian National Archives from 30 March to 18 July 2015. The exhibition was seen as place where people could go and reflect on what happened to them.

The opening of the exhibition was accompanied by a series of public programs. More details can be found on the on the Forced Adoptions History Project website at <http://forcedadoptions.naa.gov.au/content/without-consent-videos>

Source: The Advertiser 31 August, 2014

#### South Australia updating adoption laws

South Australia is currently reviewing its outdated Adoption Act 1988.

## Victoria

The State of Victoria has been slow to update its adoption laws. However, on 18 August 2015 the State Parliament amended the Adoption Act 1984 by repealing penalties for adoptees who attempt to contact their birth parents. Previously, adult adopted persons could lodge a "no contact" statement which restricted birth parents from contacting them. A fine of up to \$9100 could be imposed on a birth parent attempting to make contact.

In November 2015, following a government-commissioned report that looked at the changes needed to achieve this, a Bill was introduced in the Victorian Parliament that would allow same-sex couples to adopt a child. The Victorian child welfare agency had for years actively sought to recruit gay couples to become foster carers. The Australian Institute of Family Studies has estimated 11 per cent of gay men and 33 per cent of lesbian women in Australia have children.

Source: *The Age* 6 October 2015.

Other Australian States and Territories that permit adoption by gay couples are New South Wales, Western Australia, Tasmania and Australian Capital Territory.

## ADOPTION CASES

### New Zealand

#### **Same-sex couple in de facto relationship adopt children gestated by surrogate mother**

A groundbreaking decision of Judge McHardy in the Family Court has opened the way for unmarried gay and lesbian couples jointly to adopt children. In *Application by SJD & TYW [2015] NZFC 9404 [30 October 2015]* two men who had been in a stable and committed same-sex de facto relationship for nearly ten years and had parented two children gestated for them by a surrogate mother had applied to adopt the two children.

The Adoption Act 1955 permitted only "two spouses" jointly to adopt a child, and this limited joint adoptions to married couples. The High Court in *Re AMM [2010] NZFLR 629* was willing to extend the meaning of "two spouses" to include opposite-sex couples in a stable committed relationship, but doubted whether it could be extended further to encompass gay and lesbian couples. Later, the Marriage (Definition of Marriage) Amendment Act 2013 had the effect that same-sex couples who married would become "two spouses" and therefore able to adopt a child jointly, but same-sex couples who chose not to marry could not do so.

Judge McHardy held that the words "two spouses" must be interpreted in a manner that did not discriminate on the grounds of sexual orientation.

One of the applicants has provided Adoption News and Views with some comments on the above decision:

"Only a few weeks ago something momentous happened to New Zealand's Adoption Act. There was no accompanying media buzz, pomp, ceremony, cries of foul, rushing off to appeal courts or loud sighs from exasperated counsel. Instead, what appeared to others present to be a routine short call hearing at the Auckland Family Court was in fact the setting for a significant change to New Zealand's adoption laws. Judge McHardy granted the first joint adoption orders made in this country in favour of a same-sex de facto couple.

On 16 October 2014 (a month after the birth of our second daughter under an altruistic domestic surrogacy arrangement) my partner and I filed an application to adopt both of our children. The usual Child, Youth and Family process ensued. This was quite positive. Almost one year after lodging the application our case was heard by Judge McHardy.

The basis of our submissions was that there was no express prohibition against same-sex de facto couples being able to jointly adopt, and that a failure to grant us eligibility status would amount to an unjustified breach of our right not to be discriminated against on the grounds of sexual orientation or marital status. In granting a final adoption order, the Court agreed.”

### **Adoption order can be made when adoptive parents and child all domiciled overseas**

The New Zealand Family Court can make an adoption order even though the applicants for an adoption order and the child to be adopted are all domiciled overseas: s 3(1) Adoption Act 1955. However, the Family Court has a discretion whether to grant an adoption order and Judges have been reluctant to make orders where it appears that the principal purpose of the application is to secure NZ immigration status for the child.

In *H v H* [2014] NZFC 8754 a New Zealand national who had settled in Thailand and his Thai wife applied to adopt his wife’s two children from an earlier relationship. The applicants had no immediate plans to live in New Zealand but wanted the children to have the opportunity to experience an English speaking country and maybe to take advantage of the educational opportunities available in this country. They were refused an order in the Family Court on the basis that there was insufficient connection with New Zealand. The decision was overturned on appeal, Justice Whata emphasising that the step-father was a New Zealand national. He saw the applicants’ family as typical of a new form of “international” family in which work opportunities may take New Zealanders to different countries. Although currently living in Thailand, the applicants wanted their children to live with them as a family but also wanted them to have the opportunity to move between Thailand and New Zealand. It was their desire that the children speak good English and have the experience of living in western/European style culture. The applicants hoped they might return to this country for the children’s secondary or tertiary education.

### **Parent of child can apply for an order for contact with adopted child**

On the making of a final adoption order, the child’s relationship with his or her natural parents is severed and the child is “deemed to cease to be the child of his existing parents ... and the existing parents of the adoptive child shall be deemed to cease to be his parents”: s 16(2)(b) Adoption Act 1955. The biological parents (and all relatives traced through them) instantaneously become strangers to their child and until the Care of Children Act 2004 (COCA) came into force in July 2005 there was no means by which natural parents and extended family members (including the child’s natural siblings) could apply for an order giving them contact, even if they had an existing relationship with the child.

Section 47(1)(d) & (e) of COCA gives members of a child’s extended family and “any other person” the right to apply for contact, but only if they first obtain leave of the Court to make the application. This opened the door to the parents and relatives of the child who had had their relationship with the child severed by adoption to apply for contact after first obtaining the leave of the Court. There has since been uncertainty over what the Court will take into account in considering whether to grant leave where the applicant’s family relationship with the child has been terminated by an adoption order.

The matter came before the High Court in *G v C* [2015] NZHC 1264 [8 June 2015] where Justice Ailsa Duffy had to consider the position of a natural mother seeking contact with her child then aged seven years who had been adopted six years earlier. Her Honour noted that, although the adoptive parents had agreed to an open adoption, the birth mother had had no contact with the child for six years. The adoptive parents had not told the boy that he was adopted and did not plan to tell him.

Justice Duffy accepted that it would be nonsensical to exclude a birth parent from applying under s 47(1)(e) for leave to apply for a parenting order when any legal stranger to the child could make such an application. She also accepted that the requirement for leave in s 47(1)(e) provided sufficient protection against unmeritorious cases, adding that “Despite the continuance of closed adoptions in the Adoption Act and the legal fictions that they create, I too see no need to read down the “simple and unequivocal” language of s 47(1)(e) in circumstances that involve a birth parent seeking contact with an adopted child.”

The Judge went on to say:

“At the present time, in principle, open adoptions are seen to be beneficial. The movement is towards open adoptions. This trend was recognised in 1995 in *Re T (An Adoption)*. One of the consequences of open adoption is that adopted children who have contact with their birth parents will develop attachments to them. If there is a change of circumstance such as a child wanting more contact with the birth parent when that is against the wishes of the adoptive parents, or the adoptive parents decide to terminate the child’s contact with the birth parent against the child’s wishes, there needs to be some way to bring the matter to the court if resolution cannot otherwise be achieved. Once a child is permitted some contact with his birth parents, there is the prospect of the child suffering harm if informal arrangements break down. Thus, the best interests of the child favour the Court having the same jurisdiction under s 47(1)(e) that it has in other cases that fit within the subsection.”

## United Kingdom

### Adoption order revoked on application of teenage adoptee

A 14-year-old has been successful in obtaining an order revoking an order for her adoption made more than ten years earlier when she was almost four years old. Justice Pauffley found she had been cast out of the home of the couple who had adopted her and sent to live with extended family in Ghana where she was abused by the adult members of the family.

The girl returned to England in 2014 and was reunited with her biological mother and maternal grandmother who were thrilled to have her back in the family. On her own application, she was made a ward of Court and placed under the care and control of her birth family. The Judge observed that, while public policy considerations ordinarily militate against revoking a properly made adoption order, there are highly exceptional and very particular cases where it is appropriate to do so. The girl was also authorised to change her surname to that of her birth mother.

Source: Press Association 11 August 2015

## ADOPTION VIEWS – REQUESTS FOR INFORMATION

### Unmarried mothers

Can anyone help please? I urgently need to contact all unmarried mothers who were in the Campbell Johnstone Unit of Waikato Hospital in the years 1960-1970. Please email me at: [rosanmak@yahoo.com](mailto:rosanmak@yahoo.com) if you were or know of anyone who was there. Thank you.

Sue Atkinson

### Open adoption agreements

One reads about written “open adoption agreements” but I have never seen one and am unaware of any precedents. Child, Youth and Family makes some useful suggestions about what might be included in such an agreement but does not provide a precedent. I am drafting a precedent and would be most appreciative to hear from anyone who has or has had a written agreement, or has had difficulties over the interpretation or enforcement of an agreement.

Robert Ludbrook  
[r\\_ludbrook@hotmail.com](mailto:r_ludbrook@hotmail.com)



**APPLICATION  
FOR MEMBERSHIP OF  
ADOPTION ACTION INCORPORATED**

Please post the completed form and fee to: **Adoption Action Inc, PO Box 30-397, Lower Hutt**

I wish to apply for membership / renew membership of Adoption Action Incorporated

I have enclosed a cheque made out to Adoption Action Inc (or cash) for the membership fee of \$10 for the period ending 31 March 2016

**OR**

I have made a direct credit to the Adoption Action Inc bank account  
**12 3140 00410806 00**  
for the membership fee of \$10 for the period ending 31 March 2016

**NAME:** \_\_\_\_\_

**ADDRESS:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**EMAIL:** \_\_\_\_\_

**PHONE OR MOBILE:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_\_\_

**Optional:**

My interest in adoption is as an adopted person / natural parent / adoptive parent / academic / other professional / other (please specify):

\_\_\_\_\_

**PLEASE NOTE: Members receive, by email, the newsletter  
ADOPTION NEWS AND VIEWS  
If you do NOT wish to receive this newsletter, please tick the box below**

**PLEASE DO NOT EMAIL THE NEWSLETTER TO ME**