

LEGISLATIVE ASSEMBLY LEGAL AND SOCIAL ISSUES COMMITTEE

Inquiry into Responses to Historical Forced Adoptions in Victoria

Melbourne—Wednesday, 24 February 2021

MEMBERS

Ms Natalie Suleyman—Chair

Mr James Newbury—Deputy Chair

Ms Christine Couzens

Ms Emma Kealy

Ms Michaela Settle

Mr David Southwick

Mr Meng Heang Tak

WITNESS

Mr Julian Pocock.

The CHAIR: To begin the official proceedings I would like to acknowledge the traditional owners of the land on which we are meeting. I pay my respects to their elders past and present and any Aboriginal elders of other communities who may be here today.

I now declare open the public hearings for the Legal and Social Issues Committee's Inquiry into Responses to Historical Forced Adoptions in Victoria. My name is Natalie Suleyman. I am the Member for St Albans and the Chair of the committee. To my left are Christine Couzens, MP, the Member for Geelong, and Meng Heang Tak, MP, the Member for Clarinda. I welcome here today Julian Pocock. Thank you for being here to present to us.

All evidence taken by this committee is protected by parliamentary privilege. Therefore you are protected against any action for what you say here today, so feel free to say whatever you feel like today, but if you say anything outside and repeat the same things, including on social media, those comments may not be protected by this privilege. All evidence given today is being recorded by Hansard, to my right, and you will be provided with a proof version of the transcript to check as soon as it is available. Any transcripts, PowerPoint presentations and handouts will be placed on the committee's website as soon as possible, unless confidentiality has been requested.

The Committee is very much interested in hearing about your experience of forced adoption and in particular the services that you may have accessed, but most importantly what outcomes you would like from the inquiry. I now invite you to proceed with a brief opening statement to the committee, which will be followed by questions from the members. Thanks, Julian, for being here.

Mr POCOCK: Thank you, Chair. I just want to also start by acknowledging that we are meeting and gathering here on the lands of the Wurundjeri people of the Kulin nation. I pay my respects to their elders past and present and also to their children. I have spent most of my working life working on children's issues, and most of it working with particularly Aboriginal organisations around children's issues. I always like to bring the rights and wellbeing of children to mind when I am acknowledging country to people. I also want to acknowledge mothers, children and fathers impacted by forced adoption. I know that is what brings us all together in the room, and I know they have carried a huge burden from the experiences that they have been through.

I also need to be clear that I am presenting today just on behalf of myself. I am not representing any organisation that I currently work with or have previously worked with. I have presented to many parliamentary committees over the years, federal and state, and it is a bit additionally nerve-racking when you are presenting just on behalf of yourself. I did think long and hard about presenting, and the reason I decided that I would and I should was that with the forced adoption practices that I had the opportunity and privilege to explore and look into in my time at Berry Street, practices that I think are better described as forced abduction of children—it really struck me in thinking about whether I would seek an opportunity to present to the Committee that the reason those things were able to happen was because people who might have been able to contribute a little bit to them not happening for whatever reason felt unable to do so or did not do so. So I thought I can contribute a tiny amount to the discussion and deliberations now, which might go some way towards seeing people impacted by forced abductions of their children receive a just and fair response. I thought I could not reflect poorly on those who may not have done their bit in the past and not step up and try and do something in the present.

I suppose the nub of what I am putting on the table is a call for the Committee to really name these practices for what they actually were. I am not suggesting that every person during the period that my submission talks about, really from the mid-1950s to the mid-1970s, who was adopted during that period—or every mother who went through something called an adoption process during that period was subjected to the abduction of their children, but a significant proportion were. One of the things I think I learned along the way at Berry Street, really through working with mothers, their children and indeed their grandchildren who had been through these experiences, was just the simple importance of telling the truth in very plain English, and I think I have made a comment in my submission about the work we did with Lyn. We worked—myself and a colleague and Lyn, then Lyn and her now adult daughter who was taken from her, their children, their grandchildren—over a long period of time around their kitchen table to draft Berry Street's apology. Lyn was pretty happy with it, and I think she was pretty buoyed by it when the apology was made. But it really did not last, in my sense, and I think the reason it did not is that we just could not get Berry Street to come at the notion of using the word

‘abduction’. We did try in the apology statement, which I, having crafted the words with others, think is a very good apology. There are things in it I think are not so good and which we see in a lot of apologies made by institutions, and I will just point out a couple of those. The first is the opening line:

Berry Street acknowledges and apologises unreservedly for any pain, trauma, unresolved grief ...

And it goes on. The use of the word ‘any’ is actually a real problem because what it is really saying is there may not have been any pain, trauma or grief, and the people for whom the apology was intended understand that—that there is still a holding back.

Second is our inability to convince Berry Street to use the word ‘abduction’ either in the apology or in the information statement. We did have a version of the information statement that almost got through which simply had a sentence in it just describing what abduction is. It did not accuse Berry Street or anyone of abducting children, it just said: the abduction of children is this. That sentence was just in there with the intention that it would lead the reader to just think about these events in very plain and simple terms, because it seems to me that it is completely inescapable to reach any other conclusion if a mother who has given birth to her child has expressed again and again her desire to remain with her child is physically and forcibly removed from her child—I mean, in Lyn’s case she was removed from her child as opposed to her child being removed from her—and if the child is then taken out of her custody and care without her permission, locked in an institution, in her case Berry Street, the adoption arranged and then after that Lyn is asked to sign a consent form which did not include essential details like the name of the father. So a child has been taken in an unauthorised way out of the care of a mother, permanently placed beyond her reach where she can never contact the child, she can never find the child, she cannot communicate with the child, and this is done without her consent—then what is it if it is not abduction? So I think until we acknowledge that truth and use that word, we are never going to take another little step forward towards truth, justice and healing for mothers who experience that abduction and for the children and for the fathers.

Just on the point of fathers, the other thing that we talked long about was the importance of acknowledging fathers in the apology and also acknowledging the adoptive families, because they in all likelihood did not know the process that was being used to provide them with a child and I think subsequently have been horrified by the way children were removed to be placed in their care. And in relation to fathers, the women I worked with on the apology and the statement were adamant that we had to acknowledge fathers because agencies like Berry Street lied about the fathers. They knew what their names were, they knew where they were, they knew what support they could provide and yet they furnished documents that said the name and details of the father were unknown, denying children access to that information about their fathers. So I think that is something else that is important to focus on.

I think I will leave it there, Chair, and I am happy to answer any questions or explore whatever matters you wish to.

The CHAIR: Thank you very much for your evidence. Questions? Christine, I will go to you first.

Ms COUZENS: Thank you so much for your contribution today. I am glad you made the decision to come along, because your submission is very valuable in terms of what we need to consider and look at in terms of recommendations going forward. You talked about the apology from Berry Street and some of the wording in there. Do you think it was around legal reasons that that wording was used—to protect the organisation?

Mr POCOCK: I think that was part of it. Certainly we got good-quality legal advice, particularly around the question of whether the issuing of a general statement of apology could be used in a litigation case against Berry Street by an individual. The answer was that it could be, but the answer was also that it certainly could not be relied upon in the absence of evidence relating to the particular litigant. So in other words, yes, a litigant could point to the apology to, I suppose, make the case that there was some plausibility to their claim, but they would still have to actually go to the details of their claim and prove those details on the balance of their particular circumstances and evidence. So it was a factor, but I do not think it was a really strong factor.

From my perspective I think the difficult issue that Berry Street, myself included, grappled with in relation to that is the issue around the board’s fiduciary duties and its obligation to protect the continuity of the organisation and to act in the best interests of the organisation. My argument about that is that if the organisation exists for charitable purposes and to protect the rights of children, to promote the interests of

families, then making a fulsome apology to past clients that is not qualified in any way is true to the purpose and mission of the organisation, and therefore if the board does that, they are acting in the best interests of the organisation because they should always be acting in accordance with its purpose and mission. So I argued that the two things are not in conflict. There is no conflict between making a fulsome apology and protecting the interests of the organisation, because its only interest is in its clients and its past clients.

Ms COUZENS: Yes, okay. And in terms of recommendations that this committee will make, are there specific areas that you believe we should be considering for recommendations? And the other part to that is: do you believe from your experience that there is a need for specialised counselling in this area?

Mr POCOCK: In relation to the matter of specialised counselling, I think there certainly is a need for specialised counselling. I think the efficacy of it would be enhanced though if it were seen as part of a suite of measures that includes a proper acknowledgement of the pain and trauma that has been experienced, including acknowledgement that that trauma was driven by the abduction of children. Now, as I said, not everyone who would be coming before this committee or who would be caught up in what we call historical forced adoption practices would have experienced what I would describe as abduction.

Ms COUZENS: A lot of them have given evidence they did, so—

Mr POCOCK: That is right. A very, very significant number have. But I suppose acknowledging forced abduction and trying to provide a suite of services that is attuned to that—I do not think that lessens the value of those services to others who experienced coerced adoption or other forms of forced adoptions and for whom the word ‘abduction’ may not resonate. So I think that is a long way of saying yes.

Ms COUZENS: Yes, no, that is good. Thank you. And other recommendations?

Mr POCOCK: I think the other thing that is critically important is to have services that can support people to heal together, provide group-based programs and support people to be the drivers of their own social and emotional wellbeing, as well as having support groups to pursue advocacy around these matters.

And I think another important area of business for this committee is also to progress the review of the 1984 *Adoption Act*, which the Law Reform Commission did a review into which was tabled in Parliament I think in 2017. I have to say it is very disappointing that the state government has not progressed legislative reform as recommended by the Law Reform Commission, because we still have an adoption Act which is very, very deficient in its notion of family and its notion of children rights.

Ms COUZENS: Yes. You are not the only one to raise that.

Mr POCOCK: I mean other recommendations—I have detailed some recommendations.

Ms COUZENS: Yes, you have. Yes.

Mr POCOCK: They are broadly around truth and acknowledgement, accountability, and explicitly ensuring that this committee in their report to Parliament make a recommendation that there is a further apology made and that that further apology has the courage to use the term ‘abduction’ and that the state Parliament also looks to bring forward the necessary legislative amendments to exempt civil claims for damages from people directly impacted by forced abduction from the statute of limitations.

And then lastly, we have finally and thankfully got agreement in Victoria to a reparation or and redress scheme for stolen generations. There has been a national redress scheme, a scheme that has got some significant deficiencies but nonetheless is a national redress scheme being set in place for people who experienced institutional child sexual abuse. And we need a reparations scheme for people who experienced forced adoption and the abduction of their children.

Ms COUZENS: Thank you.

The CHAIR: Thank you. Heang, do you have a question?

Mr TAK: Thank you, Chair. Thank you, Julian, for your presentation. I think part of my question has already been answered. It is to do with the service provided to mothers. Do you think that service has been sufficient for the mothers?

Mr POCOCK: No, I do not. Look, I am not ideally placed to answer that question, but what I do know from some of the mothers I know and have worked with is there has been a tendency to fund services that I suppose take a generalised view of these practices and have not shown themselves willing to talk about some of the hard issues, including that we are talking about the abduction of children.

Mr TAK: That is right.

Mr POCOCK: And because some services, for whatever reason, have found it difficult to engage on those issues and to advocate on those issues, it is very difficult for people who arguably suffered the worst trauma to feel safe and to engage with some of the existing service providers, and I would be confident you have probably heard a significant amount about that.

Mr TAK: That is right. Okay. Thank you. Thank you, Chair.

The CHAIR: Just on a final question on Berry Street's independent redress scheme for past clients who experienced any form of child maltreatment, could you just, I suppose, give us a bit of a brief on how many people accessed that scheme and what you think it would take for organisations like Berry Street to establish a redress scheme perhaps for forced adoption?

Mr POCOCK: In terms of the scheme I referred to in my submission, I was involved in developing that scheme, which was an iteration of an earlier past abuse complaints policy that Berry Street had. That scheme was designed specifically to fill the gap until the national redress scheme was established. We did talk to some of the women involved who were caught up in these practices to make the point to them, but because they were technically minors at the time these things happened, they were technically eligible to make an application under that scheme. But it is not what the scheme was intended for; it is not what its language was around. Their strong view was the experiences that they had warranted a specific scheme, which I think is right. In terms of how many people accessed that Berry Street scheme, look, it is some years since I have worked for the organisation so it is a little bit difficult for me to say, but it would be in the dozens per year not the hundreds per year.

The CHAIR: Okay. All right. Well, this concludes the official proceedings of the Committee. Thank you so much, Julian, for your valuable contribution today and your submission. The Committee very much appreciates your time and effort in preparing your evidence. Clearly the next steps will be that the Committee will move into deliberations and put forward some strong recommendations to government. We are hoping to table the report on 1 July this year. Through our secretariat we will keep you updated of the progress, but most importantly updated on the Victorian Government's response to our report. Again, I take this opportunity to thank you very much for making the effort to present to us.

Mr POCOCK: My pleasure.

The CHAIR: All the very best.

Mr POCOCK: And best wishes with your important work.

The CHAIR: Thank you very much, Julian.

Committee adjourned.