

Placement Criteria: Age Restrictions

In 2007 the *Adoption Act 1994* underwent a review that included a reassessment of the age criteria for prospective adoptive parents. Due to the current legislation privileging single people (those without an older partner), the recommended legislative amendments include a change in the age restrictions to have eligibility assessed on the age of the younger applicant alone; however, the amendments have not yet been ratified by Parliament.

This does not mean that there are no concerns about children being adopted by older parents. The following are excerpts from the report produced by the Adoption Legislative Review Committee which explain some of those concerns. In reaching its conclusions the Committee took into account responses from the community, those people affected by adoption, research findings, and information from other States and Territories.

Excerpts from submissions to the 2007 Review of the Adoptions Act 1994:

Caring for children is physically and mentally hard work. It is not in a child's best interests to remove age barriers. People adopting at age 50 are going to be a burden on their children later in life.

The current age restrictions are reasonable, especially because they relate to the age difference between parent and child and do not prevent people from adopting. Older persons just need to consider adopting an older child.

People adopted by older parents can feel a disconnection with them and live with the fear of returning home from school to find them dead.

Adoption is rightly treated as a service for the child, not a service for infertile people. Given that there are many more people wanting to adopt than children available for adoption, the "best" parents should be chosen to be adoptive parents. The "best" parents include those who are statistically likely to be available to the child throughout childhood and well into adulthood. It is common sense that risk of loss of life and ill-health increases with age.

It is hard to understand how having older parents could be in the best interests of an adopted child as this child has already suffered great loss. Why choose older parents for that child? The average age for first-time parents is 29. Statistically very few women give birth at 40-45 years of age and almost none after 45 years of age.

The following problems may arise when choosing older adoptive parents:

- Older people tend to have health problems which require support and assistance. If a person adopts at 55 years, when the child is 20 and trying to establish independence, they may be called upon to be a carer to their parents.
- Children of older adoptive parents are more likely to be only children. Therefore when their adoptive parents die, many will be left with no family. If they were adopted from overseas, they will be unlikely to find their birth family and may become "orphans" at a young age.
- Possible differences between the age of the adopted child's parents and those of the child's peers.
- When this child has his or her own family (eg at 29) and requires assistance, the focus may be more on obtaining assistance for elderly parents.
- The chance of the adopted child's offspring having grandparents is almost zero.
- Adopted people report grief and a "generation gap" between them and older parents, despite loving them.

Jigsaw's experience is that birth parents are often upset and angry to discover their child was placed with older parents.

The push to remove age restrictions is to appease applicants and has nothing to do with providing a service to children. It is a waste to use limited adoption service resources to assess "old" applicants. If the priority was to help children, there would be a decrease in current age limits and age restrictions would not be abolished.

One person noted the steady increase in the permitted age difference between adoptive parents and the child, from 30-35 years to 40 plus years now. This person would consider it “appalling” if age restrictions were completely removed and queries whether in doing so, the government would be bowing to the pressure of adults who want a child at any cost.

Children need parents who are active and physically and emotionally fit to parent a child until the child reaches young adulthood and independence. The age at which children are reaching this stage of life is increasing, with young adults currently needing parental support and care into the mid to late twenties. It is queried how we can be certain that adoptive parents in their aged between 50 and 70 could do this.

Adoption Services notes that the paramount consideration under s.3(1)(a) is the welfare and best interests of the child, but it sometimes appears that implementation of the Act is focussed on adult needs, for example, in relation to the age criteria. Adoption Services queries whether allowing a 4-5 year old child to be adopted by someone who is close to 60 years old is in the best interests of the child. The submission notes that other countries have more restrictive criteria, partly due to increased demand and reduced availability of children, but is also due to what is desirable for children.

Although age restrictions raise equity and discrimination issues, if the paramount consideration is the best interests of the child, age is a valid consideration.

Effect on child of having older parents

Agencies that are involved with past adoptions, such as Jigsaw, argue that the main consideration in determining policy in this area should be the best interests of the child and experiences of past adoptees suggest that having older parents is not in the best interests of a child. Adoptees with older parents provided feedback to Jigsaw, which was presented in a letter to members of Parliament in 2002 when amendments to relax the age restrictions were introduced.

This anecdotal evidence suggests that children with older parents:

- feel fearful that their parents may die;
- are unhappy at being different from their peers; and
- feel their parents are less likely to understand them.⁴⁰

Jigsaw has also pointed out that with older parents:

- there are often 2 generation gaps, not one;
- teenagers will become carers for their parents, rather than vice versa; and
- many adoptees will miss having grandparents for their children, which continues a cycle of loss already experienced by the adopted child.

Excerpts from the 2007 report of the Adoption Legislative Review Committee on the Review of the Adoption Act 1994- PLACEMENT CRITERIA 4.4.2 Age Restrictions