

## ADOPTION BY SAME-SEX COUPLES

### RESPONSES BY THE COMMISSION'S YOUNG PEOPLE'S REFERENCE GROUP

The Committee requested further feedback regarding adoption by same-sex couples from the Commission's Young People's Reference Group.

The Reference Group were emailed questions addressing the Committee's queries. 11 of the 12 members sent responses back to the Commission. Some members responded to the questions by themselves and some talked with other young people and provided incorporated responses. One member (respondent 4) provided individual responses from the young people she had talked with.

A summary of responses to each question is provided as well as the complete responses from the young people.

This document was reviewed and endorsed at the Young People's Reference Group meeting on 28 March 2009.

#### QUESTION 1

Three couples have gone to an adoption agency and have all been matched with the same baby.

Betty and John are in a heterosexual relationship.  
Sue and Sally are two women in a same-sex relationship.  
Ted and Tom are two men in a same-sex relationship.

All three couples can give the baby a loving and safe environment. All three couples can meet the baby's needs.

***Should Betty and John be given priority over the other couples to adopt the baby?***

***Why / why not?***

#### SUMMARY OF RESPONSES

Of the 15 written responses, 14 responded that priority for adoption should not be given to a couple on the basis of sexuality. They said the important issue is that the couple is able to provide a safe and loving environment for the child. They said if the couples can provide this environment, then they should all have an equal opportunity. Some young people suggested that the couple who have been waiting the longest should be given priority.

One young person responded that the child should be adopted by a mother and a father so they wouldn't be teased at school, and another mentioned their friend's opinion that the lesbian couple should have preference because they both had 'maternal instinct'.

## RESPONSES

1. I don't think that any couple should have priority over adoption unless they have a criminal record or some other circumstance that would put the child in danger.
2. (No response)
3. There should be a list so that there is a fair go. Who ever is on the list though should have the right to know where they are on the list but they shouldn't be informed whether or not they are being overlooked to become a parent unless it is confirmed that they will become a parent. So whoever signed up first will receive the responsibility as parents before the others. The fact on whether or not they are a same sex or heterosexual shouldn't affect whether or not they receive a child first. Everyone has rights and it shouldn't matter if you're black or white, same sex or heterosexual. The only advantage that Betty and John should have over the other two couples is being on the list first because they all qualify to be a parent and are able to provide for the child. Though whoever receives the child should be checked up on every now and then just to be safe.

### THE LIST

A list that orders who applies to adopt first to last in each state and territory. The closer you are to the top the closer you are to becoming a parent. So this is a system that should make it fairer for applicants. But I wouldn't recommend it because it may or may not be a simple system to run by.

4.
  - i) No, everyone should be treated equally.
  - ii) No, as a diverse nation we should take pride in the fact that we are a country that does not discriminate against people for their culture, beliefs, way of life or sexuality. Each of these couples is fully capable of taking care of and providing a safe, loving and supportive environment for the child to grow up in. The child would be more accepting of others they encounter in their life if they grew up in a 'gay' household and allowing people in same sex relationships the same rights as those in heterosexual ones would make no difference to the child's welfare.
  - iii) Yeah, because then the baby will grow up with a mum and a dad, then it won't be teased through school.
  - iv) No, people shouldn't be treated differently because of the relationships they are in.
  - v) No, because heterosexual couples can make their own baby unless they have some sort of problem there. And if they do then it should all be equal.
  - vi) No, they should not as all three of the couples can provide the needs of the child. The sexuality of the parents should not matter.
5. I think that the couple that have been on the waiting list the longest should get priority. I feel that all couples are suitable and no discrimination should be given due to their sexuality.
6. I don't think Betty and John should have priority just because they are a heterosexual couple. If all three couples can raise the child in a loving, supportive

family, household and a safe environment, no one should get priority based on their relationship. If the child's needs are met everyone should have an equal opportunity.

7. No they should all have the equal opportunity to adopt, if they can provide a safe and loving environment. I say this because it doesn't matter what sex your parents are as long as you feel safe and loved.
8. I believe that in this case baby should be adopted by the couple that have the most stable relationship that will continue until the baby no longer needs care.
9. The issue in this situation is not the sexuality of the prospective parents, it is who can provide the best care at the least psychological cost.
10. I think that the adoption agency should not discriminate against the gay/lesbian couples, because Australia tolerates same-sex relationships and should maintain that. The most important thing is the loving and safe environment. If people are worried having same-sex parents would influence the child's sexuality, maybe a child should go to parents as the opposite sex as them, so that they don't necessarily view their parents as role models, and they make their own decisions. When talking to my friend, they thought that the lesbian couple should have preference over the gay couple, because they both have 'maternal instinct'.
11. The only reason that John and Betty should have priority over other couples is if they have been on the waiting list for a longer period of time. Genders should not be taken into consideration if the couple of providing the necessities.

### **QUESTION 2a**

A woman has a baby from a previous relationship. She is in a same-sex relationship. For example:

Jenny and Julie are a couple. Jenny has a baby, Annie, from a previous relationship. Annie's dad is dead.

Julie wants to adopt Annie, so she and Jenny can be Annie's parents equally.

Julie asks to adopt Annie, but is told that she's not allowed to because she and Jenny are both women.

If Jenny were to die, Julie does not have the right to continue to care for Annie. If Julie were to die without leaving a will, Annie does not have the right to inherit property or money.

***Should the partner be able to adopt the baby? Why / why not?***

## SUMMARY OF RESPONSES

All the young people who responded thought that the partner should be able to adopt the baby when doing so benefits the child. They said the partner would provide love and care and in the situation where the birth mother dies, the child would be able to stay with the partner with whom they have this existing relationship.

Some young people also mentioned that the couple should not be treated differently based on being a same-sex couple.

## RESPONSES

1. I think that Julie should be able to adopt Annie because she cares for her equally, helps to pay for caring needs and if Jenny was to die Annie would already know Julie and she would be able to comfort her and still be able to connect because they have a previous relationship.
2. Yes. She should be able to adopt the baby because the baby will grow up with her as a parent, and if anything were to happen, she should be the one to take care of the baby,
3. Yes I think that Annie should be adopted by the other woman I think that the child would need another parent and as long as the birth mother gives consent it should be alright. But just to be safe there should be a trial of whether or not they can provide for the child and whether or not they can support the child in a positive and healthy way. There could also so be a test or maybe even a check up every few months and years just to be sure until the child has reached the age of around about 12-16 and then you could just contact the child and ask them if they can handle how their life is at home if they are being cared for properly or not (the necessities).
4.
  - i) Yes she should be allowed to adopt the baby because of the reasons there.
  - ii) The partner should be able to adopt the baby as it is in the best interests of the child. It is the child's welfare that is the issue of importance here and the person who can provide the best love and care for the child is the obvious choice for adoption. In the unfortunate event of death then the child would need the support of someone familiar to help cope with the loss of a parent and this would found best in the arms of a loved one who knows what they are going through.
  - iii) Yes, it is wrong to discriminate against same sex couples. We should all have equal rights.
  - iv) Yes because well, why not.
  - v) The partner should be able to adopt the baby not only because it would make the parenting equal for both people, but it would also give the baby security if Jenny were to die.
5. I see no reason why the adoption should not go ahead as long as Julie can give Annie a suitable and loving home.

6. If Jenny wants Julie to adopt Annie then there shouldn't be a problem. Julie is aware of the responsibilities of being a parent and if she loves Annie then she is the best to care for her with Jenny or if she was to pass away. Either way Annie sees Julie as her other mother and should be acknowledged as her mother. If Julie was to die of course Annie should be able to inherit property or money because it is rightfully hers. It should be the same for same sex couples as it is for heterosexual couples.
7. Yes she should if the partner is respectful and acts as if the baby is her own and provides the baby with care and love then yes.
8. Yes she should as it is important that someone who has cared for the baby stays with her so that the baby isn't put with random people if Jenny dies.
9. Yes, first of all it would be allowed if Julie were a man. And second, if adoption is truly about the best interests of the child then of course it should have two parents (if that is what the child wants) to allow a safe future where he/she can continue to be a part of his/her family.
10. (No response)
11. Yes. If the mother is quite okay with Julie becoming a partner and registered guardian of the child, then by all means, Julie should have the right to adopt.

### **QUESTION 2b**

Two men are in a same-sex relationship and want to adopt a child they have been fostering. For example:

Joe and Rob are a couple. They have been caring for their foster child Damien for twelve years, since he was a baby. Damien's biological parents can't care for him and have agreed that he can be adopted.

Damien wants Joe and Rob to adopt him.

Joe and Rob ask to adopt Damien, but aren't allowed to because they are both men. They continue to be Damien's foster carers.

***Should the couple be able to adopt the foster child? Why / why not?***

### **SUMMARY OF RESPONSES**

All responses indicated that the two men should be able to adopt their foster child based on the following reasons:

- The couple provides a suitable environment for the child to live in
- Legal recognition of the couple as parents for the benefit of the child
- The child's wishes to be adopted
- Equal treatment for same-sex and heterosexual couples

## RESPONSES

1. I think that they should be able to adopt because they have a previous relationship with the child and both the parents and the child have agreed that the two men are allowed to adopt Damien.
2. Yes. They are already his parents, and may as well become so legally.
3. I have come to a conclusion where the two men should be entitled to be adoptive parents to the young boy Damien. I think that the child has a special bond with these men and that even though they are same sex they are already fostering him and that means that they already have a environment suitable to care for him, the boy had already settled in (and that Damien can have two footy coaches) and that they have already provided him with a loving and caring environment. Rob and Joe probably love Damien as if he was their own child and this means allowing Damien to have Rob and Joe as his licensed parents would help Damien feel as if he can relate to them more and that he is truly apart of a family. With Damien's consent and Rob and Joe's agreement there shouldn't be any problems.
4.
  - i) Yes because the foster parents are already basically his parents and then the kid can say he has parents not foster parents.
  - ii) The couple should be allowed to adopt the foster child, as a child who has been given up for adoption would be searching for a permanent place to call home, where they belong. Even though it wouldn't change the living arrangements of the family, they would formally be considered a family. People in same sex relationships are no different from those who are not, and can provide the same care for the child as anyone else could.
  - iii) Yes, everybody should be treated equally and not be left out because they are in a same sex relationship.
  - iv) Yes, because what's the difference between fostering and adopting?
  - v) The couple should be allowed to adopt the foster child, the sexuality of the parents should not make a difference on whether they are allowed to adopt a child or not.
5. As Damien wants to be adopted by Joe and Rob there should be no reason for this not to happen.
6. Yes. Joe and Rob should be able to adopt Damien. Obviously they are doing what is in the best interests for him otherwise they wouldn't have been able to foster him for so long, therefore they are seen as the best thing for him and he surely thinks of them as his family, his dads so they should be allowed to adopt him. Being is foster parents for twelve years means they love him, care for him and they are committed to him. It would be benefiting Damien if he were adopted by them. He would have a stable, loving family. So I really think they should be allowed.

I think all couples need to have equal rights when it comes to adopting children of course considering the situation. If they can provide what the child needs then to

me it doesn't matter what kind of a relationship they are in. We talk so much about having equality in our society yet people are denied the chance to have children just because they are a same sex couple rather than the man and woman couple. The situation and history of the child need to be taken into account to and if it is the best for them then it should happen.

7. Yes they should as Damien has agreed to this and feels as though he belongs with them.
8. I believe so. As long as in the paper work there is a clause that says if his biological parents want to see him that this is able to be arranged. This gives Damien the ability to be legally represented by the people that have been looking after him for 12 years.
9. Yes, definitely. The only difference between foster care and adoption is a piece of paper to say that Joe and Rob are 'legally' the parents of Damien. If they are providing him with a safe and happy environment and as mentioned above, Damien wants to be adopted then there should be no issue. Clearly they are capable of looking after him, so there isn't any justification for not being able to adopt. Also, Damien's biological parents can't care for him and have agreed he can be adopted. There is a need to care for Damien, which cannot be filled by his biological parents, Joe and Rob have done so since he was a baby, Damien is obviously happy where he is, so I say Joe and Rob should definitely adopt him.
10. (No response)
11. Yes, a) Damien wants to be adopted, b) Joe and Rob are capable of providing necessities and have for many years, and c) Joe and Rob want to adopt Damien.

### **QUESTION 2c**

Two women in a same-sex relationship want to adopt a baby. For example:

Claire and Pam are a couple. They want to adopt a baby, Julian. They have no previous relationship with Julian.

***Should the couple be able to adopt the baby? Why / why not?***

### **SUMMARY OF RESPONSES**

All the young people who responded said that the important issues to consider in adoption are the couple's ability to provide a safe and loving environment for the child, their motivation for adopting and if the couple matches the child. They explain that these requirements should apply to all couples wishing to adopt, and there should be no difference between heterosexual couples and same-sex couples.

## RESPONSES

1. I think that they should be able to adopt because they will still look after the child the same as any parents because they will still love, care and provide for the child.
2. Yes. As long as they can provide a safe and loving environment with adequate food and shelter, and in short, take care of the baby, they should be allowed to adopt it.
3. Ok so Claire and Pam should be able to adopt Julia no matter what as long as they can provide for Julia there shouldn't be a reason why Claire and Pam shouldn't adopt. But I think they should still be checked up on and that they should be put up on the list as well.
4.
  - i) Yes they deserve equal rights like everyone else.
  - ii) Yes. They deserve the same rights as any other couple, as they can care and provide for the child just as well. It would make no difference to the child, as they would grow up with the arrangement from a young age, therefore having no opposition to the situation. Would it really make any difference to the child who loves and takes care of it, just so long as it belongs? What are the real reasons behind the rejection of same sex couples, if they are fully capable of caring for the child, with the child's best interests at heart?
  - iii) Yes, if they really want a child they should be allowed to get one like everyone else.
  - iv) Yes, because why not.
  - v) Yes, they should be allowed to adopt the baby. Heterosexual couples are allowed to adopt children they have had no previous relationship with, so it shouldn't be different for homosexual couples.
5. As long as they meet all requirements and can give a caring loving home I think they should be treated equally.
6. I think that Claire and Pam definitely should be able to adopt Julian. If they can provide a loving, caring, safe environment, supportive family for him it doesn't matter whether they are two females, two males or a woman and a man. The baby's best interests should be taken into consideration if they meet what is needed then there shouldn't be a problem.
7. I think that they should be people who examine what the women are like (if they are fit to care for a child) and if they are there should be no problem with it.
8. If they are matched with him at the adoption agency yes of course they should. I believe that not allowing them to adopt because they are both girls is discrimination. I think that for this reason same sex marriage should also be legal.
9. They should be given the same rights and opportunities as any other heterosexual or same sex couple. The process should be the same and if they



are denied the opportunity to adopt the child it should not be based on sexuality, rather suitability to the child and his/her needs, ability to create a safe and happy environment as well as their motivations for adopting.

**10.** (No response)

**11.** Not immediately. The couple should prove that they are capable, just the same as with a 'traditional couple'. This examination should be made compulsory to all wanting to adopt. Other than this, there should be no discrimination with the couple's sexuality.