

CG301**ADOPTION ACT 1994****CODE OF PRACTICE (CONTACT AND MEDIATION AGENCIES) 1995**

Made by Order of the Minister for the purposes of section 107 (c).

Citation

1. This code may be cited as the *Code of Practice (Contact and Mediation Agencies) 1995*.

Commencement

2. This code comes into operation on the day on which the *Adoption Act 1994* comes into operation.

Definitions

3. In this code—

“client” means any person for whom a licensee provides a service, without regard to who is paying for the service;

“found party” means a party to an adoption who is to be contacted by the licensee on behalf of the licensee’s client;

“licensee” means a person who has been issued with a licence provided for by section 105 of the Act;

“reunion” means the initial contact that occurs between all or some of the parties to an adoption who have previously been unable or unwilling to have contact;

“service” means a contact or mediation service,

and words and expressions used in this order have the same respective meanings as they have in the Act.

Introduction

4. (1) This code of practice relates to the practice and conduct of contact and mediation agencies and is published for the purposes of section 107 (c) of the Act.

(2) This code is intended to ensure that all licensees will provide services that are professional and respectful of the individuality of all clients and found parties, and will safeguard those persons' rights, in particular their rights to dignity, privacy and self-determination.

(3) All licensees are required to comply with this code. Failure to do so could result in the suspension or revocation of, or refusal to renew, a licence. Licensees should acquaint themselves with the provisions of the Act and the regulations and in particular, the offences and penalties referred to in sections 108, 124, 126 and 127 of the Act.

(4) This code is intended to be in addition to codes of ethics made or adopted by relevant professional bodies such as the Australian Association of Social Workers Ltd. or the Australian Psychological Society Ltd.

General requirements in relation to practice and conduct

5. (1) Licensees must have a current and comprehensive knowledge of adoption, the *Adoption Act 1994* and the *Adoption Regulations 1995*, the issues and stages involved in search, contact, reunions and mediation, human developmental stages and the history of adoption laws and practices. Licensees must also be able to assist persons in relation to the development and maintenance of functional relationships.

(2) Licensees must maintain high standards of proficiency and knowledge in relation to their work as contact and mediation agents.

(3) Licensees must not unlawfully discriminate in the provision of services and must make their services available to prospective clients regardless of the ethnic background, sex, marital status, religion or sexual preference of a prospective client.

(4) Licensees must not unduly persuade, coerce, intimidate or harass any person in relation to the provision of services and must ensure that no person is provided with services without that person's full and freely given permission.

(5) A licensee's impartiality is central to an outcome which satisfies the interests and need of all parties. Licensees are to act in a non-judgemental manner and must not unduly influence any decision to be made by any party. In the event that it is not possible for a licensee to provide a service without a conflict of interest arising, the licensee is to inform the parties involved and cease the provision of services.

(6) Licensees are not to provide services to clients without the full consent of each client. Each client (or, if the client is less than 18 years of age, the guardian) is to be informed of the name of the licensee, the nature and limits of the licensee's role, and the fees to be charged. Licensees must not make false, misleading, unrealistic or unfair statements about their role, skills or qualifications or about the contact and mediation process and likely outcomes.

(7) Licensees are to acknowledge that their role, training, competencies and experience do have limitations and must not undertake work beyond their role or capacity. In the event that a client requires services that cannot be adequately provided by a licensee then the licensee is to refer the client to persons appropriate to provide the services. (In this provision, "services" is not limited to contact and mediation services).

(8) Licensees are to provide advice to clients fully and frankly and ensure that any decisions made by clients following advice are made without coercion.

(9) Licensees should refer to matters relating to adoption in an objective and factual manner rather than in negative or value-laden terms.

(10) Licensees must ensure that mediation is not undertaken by any person who is not a licensee and that the nature and extent of contact between the parties to an adoption are negotiated in a manner which ensures that the needs of all parties are addressed. Licensees must ensure that all reasonable efforts are made for an optimum outcome for all parties.

(11) Licensees must not take part in any unlawful activity and must not suggest, advise or encourage clients to take part in any unlawful activity.

(12) Licensees must not breach any trust between licensee and client and must at all times demonstrate a professional concern for the interests of clients and found parties.

(13) Licensees are to terminate relationships with clients when it becomes reasonably clear that the clients no longer require, or are not benefiting from, the services.

(14) Licensees are to work on the basis that the quality of the services provided is of greater importance than the speed at which the services may be provided.

(15) If a client's desire to contact a party is obsessive or accompanied by unrealistic expectations of the outcome of a reunion, the licensee must provide appropriate assistance to the client before proceeding further with any contact. Licensees should, to the extent possible, arrange a reunion and allow the parties to control the processes and outcomes of contact and mediation.

Specific requirements in relation to practice and conduct

6. (1) Licensees must inform clients and found parties that although licensees are to advise and assist parties in relation to matters which affect parties' interests and the outcome of mediation, the decisions in relation to those matters are to be made by the parties.

(2) Licensees must obtain from each client who requests services a written "authorizing statement" in which it is stated that the licensee has been retained as the client's agent for the purpose of undertaking such contact or mediation services as are stated in the authorizing statement in relation to such other of the parties to the adoption as are named in the authorizing statement. The authorizing statements must be obtained before services are commenced.

(3) Licensees must ensure that no information about clients or found parties will be provided to any person without the prior consent of the person to whom the information relates unless the breach of confidence can be justified. Example: if there is clear evidence that a serious and imminent threat of danger exist to a person and a breach of confidence is required to protect that person. Licensees must ensure that in communications about parties, information is based on factual and objective information. Licensees must not unnecessarily divulge information about parties.

(4) Licensees must maintain adequate written records, including information about dates of contact with each party outcomes of contact outcomes of mediation, names of the personnel involved and copies of authorizing statements and any written consents to the release of information. Licensees must ensure that these records are securely stored and not accessible to unauthorized persons.

(5) Licensees who charge fees for services must not charge fees that exceed the current comparable rates for social workers and psychologists in private practice.

(6) Licensees must be satisfied as to the identity of all clients and found parties.

(7) Licensees must be satisfied that all clients and found parties have access to information about Part 4 of the Act and the rights and responsibilities of those persons arising from the Act and to information about Part 7 of the *Adoption Regulations 1995*.

(8) Licensees must be satisfied that all clients and found parties have access to the code of practice relating to the conduct of contact and mediation agencies that is in effect at the time the services are provided and that clients and found parties are informed that any complaints about licensees are to be made to the Minister.

(9) Before contacting a found party, a licensee must be satisfied that any information provided by the client purporting to identify or locate the found party is accurate. If the information is in written form, the licensee is to keep a copy of it.

(10) If a licensee, having applied to the Director-General under section 108 of the Act, is notified by the Director-General of the requirements of a current contact veto, the licensee must inform the client of the information received from the Director-General.

(11) If a licensee, having applied to the Director-General under section 108 of the Act, is notified by the Director-General that there is no current contact veto, the licensee must determine whether the client has had (which includes attempted) any contact with the found party and the outcome of the contact. If the found party has indicated that the found party wishes to have no contact with the client, the licensee is to cease services for that client.

(12) Any communication by a licensee with a found party must be directed to the found party and no one else and must be discreet and confidential. Licensees must take care to avoid the risk of other persons suspecting or learning that a found person is or may be involved in an adoption. Unless there is good reason to do otherwise, initial communication should be by telephone or letter rather than in person. Licensees must ensure that there is no restriction on the ability of a found party to exercise control and to make choices about whether, and how, further contact is to take place and that the privacy of the found party is respected.

(13) Before a reunion of clients and found parties occurs, the licensee (or such other person who is authorized by the licence to do so) is to conduct at least one communication with each person who will attend the reunion. The main purposes of the initial communication are to explain procedures and the licensee's role, to clarify expectations, check information about the found party, obtain the found party's permission to proceed, to consider the full range of possible outcomes for all parties and to obtain relevant information for exchange during mediation.

(14) Licensees must be aware of the possibility that some found parties may not be aware of their adoption. Licensees are to ensure that those persons are informed of assistance that is available to them to deal with the implications of the recently acquired knowledge.

(15) Licensees must be sensitive to the full range of views, experiences and reactions of persons affected by adoption and take these into account in the contact and mediation processes.

(16) Licensees must ensure that the participation of parties is on a fair and equitable basis. Licensees should be aware of any imbalances in negotiating power and cease to act if any party continues to harass, coerce, intimidate, embarrass or ridicule another party.

(17) Licensees are to ensure that mediation proceeds at a pace commensurate with the time required by each party to deal with his or her individual concerns.

(18) Licensees must inform clients and found parties that post-reunion support and assistance may be required and provide to clients and found parties information about the availability of services.

Dated 22nd December 1994.

C. L. EDWARDES, Minister for Community Development.