

# Open adoption

## What you need to know

Mandatory written information on open adoption for Aboriginal and Torres Strait Islander children and young people aged 12 or more in out-of-home care.



# Acknowledgement

We recognise the Stolen Generations. On Sorry Day, 26 May 2008, former Prime Minister, Hon Kevin Rudd said sorry for the policy of removing many Aboriginal and Torres Strait Islander children from their families, communities and Country. These planned removals created the Stolen Generations. This continues to have a devastating impact on Aboriginal and Torres Strait Islander families, communities and cultural connection. For the pain and suffering this caused and continues to cause, we are sorry.

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## **National Apology to the Stolen Generations**

Prime Minister (Hon Kevin Rudd MP):

Mr Speaker, I move: That today we honour the Indigenous peoples of this land, the oldest continuing cultures in human history. We reflect on their past mistreatment. We reflect in particular on the mistreatment of those who were Stolen Generations – this blemished chapter in our nation’s history. The time has now come for the nation to turn a new page in Australia’s history by righting the wrongs of the past and so moving forward with confidence to the future. We apologise for the laws and policies of successive Parliaments and governments that have inflicted profound grief, suffering and loss on these our fellow Australians. We apologise especially for the removal of Aboriginal and Torres Strait Islander children from their families, their communities and their Country. For the pain, suffering and hurt of these Stolen Generations, their descendants and for their families left behind, we say sorry. To the mothers and the fathers, the brothers and the sisters, for the breaking up of families and communities, we say sorry. And for the indignity and degradation thus

inflicted on a proud people and a proud culture, we say sorry. We the Parliament of Australia respectfully request that this apology be received in the spirit in which it is offered as part of the healing of the nation. For the future we take heart; resolving that this new page in the history of our great continent can now be written. We today take this first step by acknowledging the past and laying claim to a future that embraces all Australians. A future where this Parliament resolves that the injustices of the past must never, never happen again. A future where we harness the determination of all Australians, Indigenous and non-Indigenous, to close the gap that lies between us in life expectancy, educational achievement and economic opportunity. A future where we embrace the possibility of new solutions to enduring problems where old approaches have failed. A future based on mutual respect, mutual resolve and mutual responsibility. A future where all Australians, whatever their origins, are truly equal partners, with equal opportunities and with an equal stake in shaping the next chapter in the history of this great country, Australia.

# About this document



**Michael Tidball**

NSW Department of Communities and Justice

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This booklet tells you what happens when children and young people and their carers are interested in open adoption. The Department needs to give this information to you if open adoption is being considered for you. If you receive this booklet, it doesn't mean that you will be adopted. You might change your mind or it may not be in your best interests.

Within Aboriginal communities, adoption is not a cultural practice. Living with family and kin is preferred for Aboriginal and Torres Strait Islander children who are not able to live with their parents. If this is not possible, open adoption may be considered under special circumstances and as a last option.

Open adoption takes time. It's not a decision that any one person can make. It must be assessed and considered by the New South Wales Supreme Court. Open adoption can only happen if it meets your needs. Decisions are made around what is considered best for you.

The Department has designed this booklet so that it follows the journey that a child or young person takes if they go through the open adoption process. The sections in this booklet are:

1. My carers and I are interested in open adoption
2. I've been told there will be an adoption assessment
3. I've been asked if I want to consent to my open adoption
4. An adoption application has been sent to Court
5. I've been adopted
6. I'd like more information.

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The NSW law about open adoption says that a young person must get the information in this booklet before they are asked to agree to their open adoption. A child or young person is someone aged 12-17. You will have the opportunity to talk to a Registered Counsellor and go through the information in this booklet. You can also talk to an approved Aboriginal or Torres Strait Islander person who understands open adoption.

If you are under 12, you will not be asked to sign your agreement to open adoption but you will be asked to give us your thoughts and feelings about it.

Being adopted is an important step. Thinking about it might be stressful. It could put you in a hard position. I have great respect for your feelings, and your rights under our laws. So there are two things I want to encourage:

- Be informed. Read this booklet. Remember that you can't be adopted unless it is in your best interests.
- Ask for help if you need it. Start with your carer and/or caseworker. Ask them to explain anything that you don't understand. Tell them what matters to you.

A handwritten signature in black ink, appearing to read 'Michael Tidball'.

**Michael Tidball**

Secretary - NSW Department  
of Communities and Justice (DCJ)

# Accessing this booklet

We are committed to providing accessible services to Aboriginal and Torres Strait Islander people. If you have difficulty in understanding this booklet you can:



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Contact Translating and Interpreting Service (TIS national) 131 450.



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Download this booklet in PDF (websearch: mandatory written information) and listen using Adobe Acrobat's Read Out Loud function.



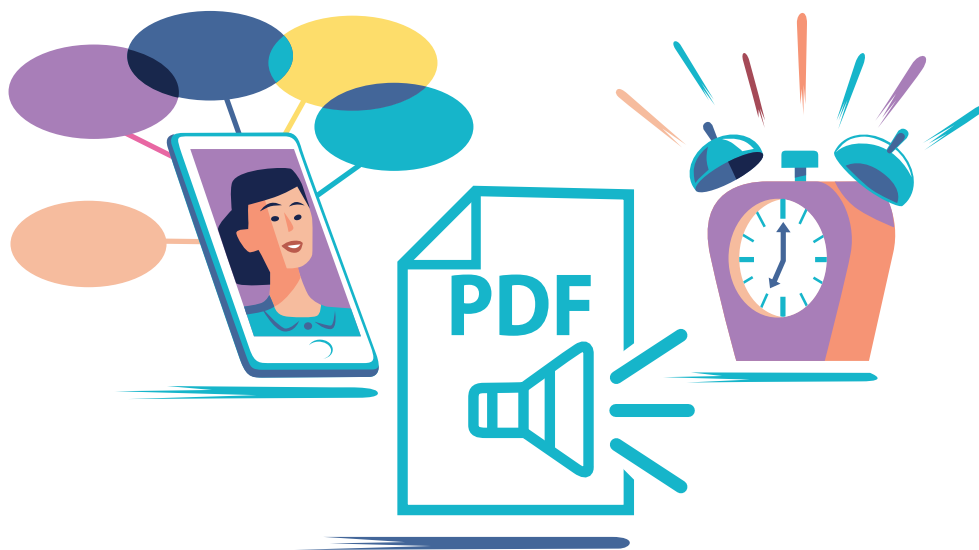
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Ask your caseworker if the Department has an Aboriginal or Torres Strait Islander support worker who can go through this booklet with you.



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Take a break. You don't have to read this whole booklet at once. You can go to the section you want to know more about at anytime, write down anything you don't understand or ask your caseworker to explain.



# Some terms in this booklet

Aboriginal and Torres Strait Islander people are the original inhabitants of Australia.

It is important to remember that Aboriginal and Torres Strait Islander cultures are very different, with their own unique histories, beliefs and values.

It is respectful to recognise their separate identities.

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## Aboriginal

means the First Nations Peoples of Australia. It is used to refer to different nations, language groups and clans in Australia.

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## Adoption agency

means the non-government agency who is accredited to manage open adoptions of children who are in out-of-home care.

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## Adoptive family

means your legal family after open adoption –your legal brothers, sisters, aunts, uncles and kin.

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## Adoptive parents (carers)

means your carers who become your legal parents after an open adoption order is made by the Supreme Court.

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## Agency

means the non-government agency that is looking after you while you are in out-of-home care. They aim to provide a stable and permanent home to a stable and permanent home to children and young people in out-of-home care.

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## Arrangements

means the way you live –your home, the people around you and what the Court says.

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## Carers

means the people who look after you.

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## Court order

means a legal decision made by a Court that is a rule that must be followed.

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## Family or birth family

means the family you were born to –parents, brothers, sisters, aunts, uncles and kin.



### Some terms in this booklet continued

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#### **Family time (contact)**

means time that you spend with your parents, your brothers, sisters and other significant family or kin. Family time is critical to maintaining your sense of identity and culture. Family time can be time spent together in person, over the phone, texts, skype etc.

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#### **Parental responsibility**

means the right to make decisions about what's best for you in your childhood.

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#### **Parents**

means your mother and father at birth.

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#### **Parties**

means people who are directly involved in open adoption court proceedings.

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#### **The Department**

means the NSW Department of Communities and Justice.

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#### **Torres Strait Islander**

means the First Nations People of Australia from any of the Torres Strait Islands between northern Australia and New Guinea. It is used to refer to different nations, language groups and clans in Australia.



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# My carers and I are interested in open adoption

This section looks at what you need to know if you want to be adopted and your carers would like to adopt you. It explains what an open adoption is and the other care options that might meet your needs.



# What is an open adoption?

Open adoption is for you and is for your whole life.

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'Open' means you have the right to stay connected to your family, Aboriginal and Torres Strait Islander communities, cultures and Country.

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'Open' means your life before open adoption is an important part of you, and your life story continues with two families after open adoption.

Openness may help you to feel comfortable and free to talk about yourself, your families, and all the things that make you who you are.

For more detail, go to page 11

## What are the other choices instead of open adoption?

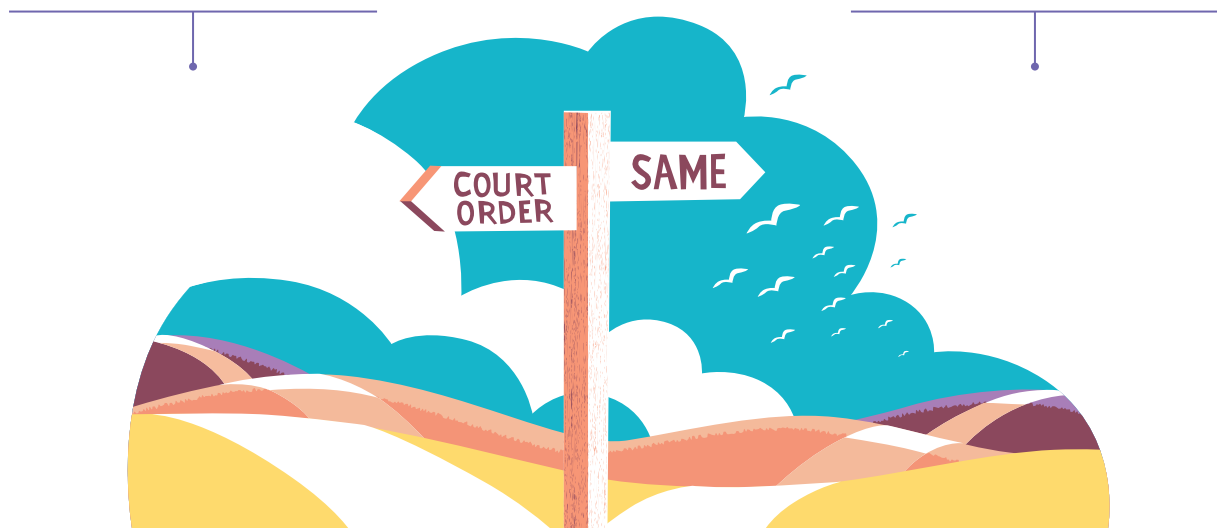
The NSW law on open adoption protects future generations of Aboriginal and Torres Strait Islander children from past practices that separated them from their families, communities, cultures and Country.

When you are in out-of-home care and returning to your parents' care is no longer being considered, open adoption is the last option that is considered.

Before open adoption is considered for you, the other options explored first are:

A Court order that gives parental responsibility to your carers, such as a guardianship order.

Keeping things as they are now with your carers.



**Remember:** The Department and the Court must consider what is best for you.

For more detail, go to page 13

# About open adoption

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## Why is adoption being considered for you?

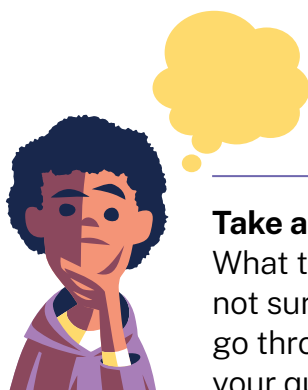
The Department or agency looking after you helps to find a safe and loving home for life for every child in out-of-home care.

When you can't stay safely together with your family, relatives or kin, or it is not in your best interests to stay in the parental responsibility of the Minister, open adoption is considered as a last option.

In your case, open adoption is the goal. That's why you have been given this booklet.

Keep in mind that the goal can be changed. To be sure that open adoption is best for you, your caseworker talks to all of the people who:

- play a part in your life
- are connected to you



- have information about you and your communities, cultures and Country.

Most important of all, your caseworker talks to you. Your views and your feelings matter.

To be very sure that open adoption is best for you, your caseworker arranges an adoption assessment. This is a check from a trained person who hasn't been involved with you before. See section 'I've been told there will be an assessment' on page 14.

## What is an open adoption?

Open adoption is a legal process. It gives your carers all the rights and responsibilities of being your parents. It does not end when you are 18. It lasts for your whole life. When you are adopted, you get two new birth certificates. An amended Birth Certificate that shows you being part of your adoptive family since birth, and an Integrated Birth Certificate (IBC) that includes information about your birth parents and

siblings, as well as your adoptive parents and siblings. See 'Introducing Birth Certificates' factsheet at the end of this booklet.

You will always be connected with the people in your birth family, but after open adoption they stop being legally related to you. This does not mean you need to stop seeing your family or having other types of family time with them.

## Who is the main focus in an open adoption?

You are. Open adoption gives you an opportunity to live and be cared for by adoptive parents right through your childhood and into your adult life. It is to meet your needs and to help you grow up where it is best for you. Open adoption is not provided to fulfil the wishes and hopes of any other person.

Of course, other people are important. A lot of time will be spent talking with your carers and with people in your carers' family, as well as your parents

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**Take a moment** How do you feel about open adoption right now? What things do you want to find out? Are there things that you're not sure about? Read this booklet very carefully. If you prefer, go through this booklet with someone you trust. If it doesn't answer your questions, talk to your caseworker.

## About open adoption continued

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and close family members. All of these people have feelings and opinions about the idea of open adoption for you.

### **Why do we say adoption is 'open'?**

In the past, 'closed' adoptions were common. In a closed adoption, parents and children had no family time with each other and weren't able to get information about one another. Parents and adoptive parents did not get to know each other. Often, Aboriginal and Torres Strait Islander children who were forcibly taken away from family weren't given information about their parents and extended family.

Today, openness is part of adoption law. The law and adoption agencies recognise their past role in breaking important family, community and cultural ties.

There is commitment and responsibility to support Aboriginal and Torres Strait Islander children to grow up strong in family and cultures

by working together with Aboriginal and Torres Strait Islander family and communities.

### **How is openness put into practice?**

Open adoption needs an open attitude and the sharing of time and information between two families. An open attitude helps adopted children to:

- understand that they have more than one family and culture
- keep building relationships with family members through talking, messaging and spending time together where possible
- feel free to talk about their family and culture, and share their thoughts and feelings about being adopted.

### **What role do adoption agencies play?**

Open adoption agencies are called accredited adoption service providers. They teach and assess carers to make sure the carers can help you stay connected to your family and Aboriginal and Torres Strait Islander cultures after open adoption.

These agencies understand that being born in one family and growing up in another family might be hard. The Department is an open adoption agency and some non-government organisations are also open adoption agencies.

See 'I'd like more information' on page 46 for a list of open adoption service providers.

### **Does the Department look at other options?**

Yes. Before open adoption is planned for an Aboriginal or Torres Strait Islander child in out-of-home care, the law says that all other options about the care of the child must be explored first.

This is to make sure that the best order is made for that child. An order is a decision, or ruling, made by the Court.



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**Take a moment** Do you think you know the difference between the closed adoptions of the past and the open adoptions of today? If no, ask your caseworker to explain.

# Alternatives to open adoption

The Department does not support open adoption for Aboriginal and Torres Strait Islander children unless returning to their birth family, guardianship to a relative, kin or other suitable person and leaving things as they are (staying in out-of-home care) have been considered and ruled out.

## What are the alternatives?

When returning to live with your parents is not the best option, there are other ways you and your carers can keep living together. Some other ways include:

- giving parental responsibility to your carers through a guardianship order, or

- keeping things the way they are now, in long term care. That generally means you stay with your carers under the parental responsibility of the Minister for the Department.

These arrangements are not for life and the legal part ends when you turn 18. For some children, they may not give the sense of belonging or the legal security that open adoption can.

Open adoption is considered where it is decided that this is in your best interests now and in the future.

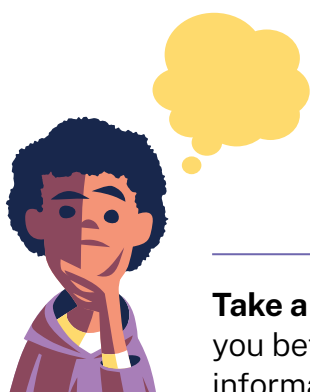
## What is a guardianship order?

Guardianship is an order made by the Children's Court that gives full parental responsibility to a child's carers until the child turns 18. Most guardianship orders are made to people who are related to the child, however the child's foster carers can also seek to become their guardians.



## Important things to remember

- You will stay living with your carers even if alternatives to open adoption are explored.
- Any order made by the Court must be in your best interests.
- Guardianship is a good option for many children. Guardians make all parenting decisions. They help you stay connected to family, communities, cultures and Country. Your birth certificate does not change and you remain a legal member of your family.



**Take a moment** Do you think one of these alternatives may suit you better? If yes, ask your caseworker to explain, or look at online information about guardianship (websearch: what is guardianship?).

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# I've been told there will be an assessment

This section looks at the adoption assessment.

It explains who the assessor is, and what they look at.

It explains what the assessor does and how the assessor decides if:

- your carers are suitable people to adopt you, and
- Open adoption is in your best interests.

It also explains the planning that is done to support your life after open adoption, and the role of your parents.



# What is the assessment process?

Your carers or you express an interest in open adoption. A case plan goal of open adoption will need to be reviewed, supported and approved.

Your carers apply to adopt you. They also attend an open adoption information session to learn more about the responsibilities of being adoptive parents.

An assessor spends time with your carers and their family to check if they can meet your needs and are suitable people to adopt you.



The assessor spends time with you, to talk to you about your needs, feelings and opinions and to find out what matters to you.

The assessor meets with your birth parents and family members who are important to you, to hear their views.

The assessor gives an opinion. If the assessor supports open adoption, an Adoption Plan is developed with you, your carers and your family. The Department must give their approval before any further action is taken.

# What do assessors consider?

The wishes of each parent, as well as your wishes.

Your wellbeing and cultural needs and how they will be met by your carers.

The most important relationships in your life, including your relationships with your parents, brothers and sisters, other family members and kin, and also with your carers and their family.



Your carers' character (what kind of person they are), health, maturity and parenting ability.

How well your carers are able to keep up family time with your parents and siblings, and how well they can help you to know and value the things that are part of your cultures and religious identity.

If there is any other option instead of open adoption that might be best for you.



# What is an Adoption Plan?

An Adoption Plan is a written agreement about how you will stay connected to your family, communities, cultures and Country if an adoption order is made.

Agreeing to the Adoption Plan means you agree to the arrangements in the plan after the open adoption if it happens.



'Registering' an Adoption Plan means the Court can make sure everyone follows the arrangements in the plan.

If things change in the future, the Adoption Plan can be reviewed and updated.

For more about adoption planning, go to page 22

# What is a cultural plan?

Cultural planning is the process of considering and providing for your future needs so that you stay connected to your family, communities, cultures and Country.

The cultural plan makes up part of the Adoption Plan which is registered at Court.

A cultural plan has the details about how you will continue to learn about your cultures, belong to your cultural communities and develop a positive cultural identity.



The Department will ask the Court to register the Adoption Plan. Registering the Adoption Plan means that important arrangements made about your cultural plan become part of the order of the Court, and should be enforceable.

When deciding whether open adoption is the best goal for you, your cultural plan will be reviewed to make sure that your carers have been meeting your cultural needs and can continue to do so without the support of the Department or agency looking after you.

For more detail, go to page 25

# Open adoption assessment

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## Why is there an assessment?

You probably know that assessing something means 'checking it out' and 'weighing it up'. The idea of open adoption has to be assessed. This assessment is required by law (the Adoption Act 2000) to make sure that:

- your carers are suitable people to adopt you, and
- open adoption is in your best interests – better than any other action that could be taken, including leaving things the way they are.

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## Who does the assessment?

Your agency selects a person who:

- is trained to assess whether adoption is in your best interests, and
- has not been involved in managing your care.

## How long does the assessment take?

The assessment is likely to take around four months. The assessor needs time to make sure the assessment is fair, and that all important aspects are looked at. See 'What do assessors look at?' on the next page.

It also gives the assessor a chance to talk with you, your carers and your family as often as they need.

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## What happens in an assessment?

- The assessor reads information that helps them to understand your life story – who you are and what has happened in your life.
- The assessor spends time in your home talking with you, your carers and their own children (including those still living at home and older children who have moved out), and any other people who live with you.
- The assessor spends time with you to find out what you think about being adopted, what questions or concerns you might have, and what things matter the most to you.
- The assessor spends time talking with members of your family and with any other people who are important in your life. The assessor listens to their views and questions about the proposed adoption.

### Assessment continued

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- The assessor looks at the ways you will stay connected to your family and cultures.
- The assessor will explain what happens to the information you give them, and how it will be shared. You can then make a decision about what you want to share with the assessor.
- If open adoption is recommended, an Adoption Plan and Cultural Plan are drafted. See sections 'What is an adoption plan?' on page 17, and 'What is a Cultural Plan' on page 18.
- The assessor writes a report about the information they have collected and gives their opinion about open adoption. The most important thing the assessor will think about is whether open adoption is in your best interests and if the Adoption Plan meets your needs – not just now, but for your whole life.



#### What do assessors look at?

- Your wishes.
- The wishes of your parents.
- Your age, maturity, background and family relationships.
- Your physical, emotional and educational needs.
- Your sense of personal, family and cultural identity (what makes you who you are).
- Any disability or special needs that you have.
- The relationship and family time you have with your parents, your siblings, other family members, and other important people.
- The relationship you have with your carers.
- The attitude of your carers to the idea of being your adoptive parents and how they feel towards you.

#### How are your carers assessed?

Many important things must be looked at when deciding if a person is suitable to be an adoptive parent, such as:

- their health
- their age and maturity
- their skills and life experience
- whether they will be able to look after you as your parent
- whether they can give you a stable, secure and positive place to live
- whether they will support you to know your cultural identity and religious faith (if any)
- how much they will try to keep you connected with your family
- their character (what kind of person they are)
- how they get on with other people in their family and people living in their house.

## Assessment continued

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### How are your carers' ability to support your connection to your Aboriginal and Torres Strait Islander cultures assessed?

It is expected that the adoptive parents of an Aboriginal or Torres Strait Islander child are committed to supporting the child to learn about their Aboriginal and Torres Strait Islander cultures and heritage. The adoption assessment will carefully look at whether your carers:

- can help you to develop a healthy and positive cultural identity
- have knowledge or are willing to learn about your heritage
- can teach and foster links with your heritage in your upbringing
- can help you if you are faced with racism or discrimination.

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### What does the assessor provide when the adoption assessment is completed?

- An assessment report that explains whether:
  - your carers are suitable to adopt you, and
  - open adoption is in your best interests and better than any other option and, if open adoption is recommended.
- A draft Adoption Plan that suggests a plan of how you will be helped to know and value your identity and stay connected to your family and other important people. See more about adoption planning in the next section.

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### What will happen next?

If open adoption is recommended, a decision-maker in the Department will decide whether to go ahead and get an application ready for the Supreme Court.

If the assessor does not think that open adoption is in your best interests, then the open adoption will not go ahead. This does not necessarily mean that open adoption will never be considered again. It is possible that the open adoption will be placed on hold and discussed at a later date.



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**Take a moment** Do you understand the purpose and the activities of the assessment? If no, ask your caseworker for more detail.

# Adoption Plan

## What is an Adoption Plan?

An Adoption Plan is a written agreement about what things will be like if an adoption order is made. Think of it as a 'connection plan'. It covers things like:

- how you will learn about who you are and where you came from – things like your family history and Aboriginal or Torres Strait Islander identity and cultures
- how you will have healthy and positive links to your culture and identity
- the kind of information your parents will receive about you – things like important life events and how things are going for you, including your health

- the family time you will have with your parents, brothers and sisters and other family members:
  - The plan will say when you will meet, where, how often, and who will be there if face-to-face family time is best for you.
  - It will also mention other ways of keeping in touch.
- the kind of financial assistance e.g. an adoption allowance, or other assistance that might be provided to help you
- the names you will be known by if an adoption order is made
- an Aboriginal organisation will be consulted about your plan before it is finalised.

## What if spending time with my birth family is working well?

Spending time with your family doesn't have to change after you are adopted, especially if the time spent together is working well for you. Things might change, though, if:

- someone in your family wants to start up regular family time with you
- you feel that you want to have more or less family time with someone.



### Adoption Plan continued

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#### **Who is involved in an Adoption Plan?**

An Adoption Plan is a plan agreed to by two or more of the following people:

- You
- Your parents
- If the Court permits, an Aboriginal or Torres Strait Islander person who is significant to you and/or your family should be identified in the registered Adoption Plan. This person could be a support person, a friend, community member or kin, who can help you to stay connected to family, culture and community after open adoption. This person or any family member can raise any questions about you and your cultural connections with the Department, and request a review of the arrangements, if the Court permits.
- Your carers
- The Secretary of the Department
- The principal officer of an adoption agency.

Other people can also be involved in the plan such as your brothers, sisters and other relatives, if the Court permits.

The Adoption Act says that Aboriginal and Torres Strait Islander people and organisations need to be consulted when important decisions such as the Adoption Plan are being made about Aboriginal and Torres Strait Islander children. This includes:

- an Aboriginal or Torres Strait Islander person approved by the Department with experience in working with Aboriginal and Torres Strait Islander children; or
- a person nominated by your parents, extended family or kinship group, who is recognised by the Aboriginal or Torres Strait Islander communities which you belong to, with expertise in out-of-home care or open adoption of Aboriginal and Torres Strait Islander children, and
- a local community-based and relevant Aboriginal organisation.

The Aboriginal or Torres Strait Islander person who is chosen to support you will stay involved in your life to help you stay connected to your cultures, communities and family if an adoption order is made.

#### **How will I be involved in the Adoption Plan?**

The law about open adoption says that children should have the chance to take part in decisions that will have a big impact on their life.

When you talk to the assessor, you will have a chance to talk about your life after open adoption, if an adoption order is made. See the previous section for more information about the adoption assessment.

If the assessor supports open adoption, they will start to prepare the Adoption Plan. The plan will include your ideas.

You, your family and your carers will be asked to look at the draft Adoption Plan and say what you think about it.

There will be time to discuss different opinions and make the plan better. It's important to have an Adoption Plan that everyone can stick to, because there won't be a caseworker to help out after an adoption order is made.

## Adoption Plan continued

Because you are over 12, you will be asked to sign the finished Adoption Plan. This means that you need to understand what is written in the plan and agree with it. It is important that you talk openly with your carers and your caseworker about what you want and how you feel.

### What does 'registering' an Adoption Plan mean?

Adoption Plans are filed with the adoption application at the NSW Supreme Court. See section 'An adoption application has been sent to Court' on page 36.

All Adoption Plans for Aboriginal and Torres Strait Islander children are registered at Court. This means that when the adoption order is made, the Adoption Plan becomes part of the order of the Court.

### How is an Adoption Plan reviewed?

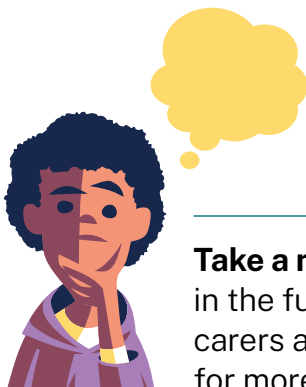
If things change after an adoption order, it is important that you, your adoptive family and your birth family try to talk about the things that aren't working. This is so you can all try and reach an agreement that suits everyone. If everyone involved in the Adoption Plan is happy to make changes, there is no need to involve the Court.

If there is disagreement about the changes, your parents, your carers, or any person who has agreed to the plan may be able to ask the Court to review the plan. If you need help to manage the disagreement, you can ask for the support of the Department's Open Adoption Information Unit. See section 'I'd like more information' on page 47 for contact details.



### Important things to remember

- The Adoption Plan is one of the things the Court thinks about when making a decision about open adoption.
- The Court reviews the Adoption Plan to make sure it supports you to stay connected to your family, communities, cultures and Country.
- All Adoption Plans for Aboriginal and Torres Strait Islander children are registered in the Supreme Court.
- All cultural arrangements for you will be included in the Adoption Plan which is registered at Court.
- After an adoption order is made, the Court has the power to review an Adoption Plan and change it if necessary.



**Take a moment** Do you have any questions about family time now or in the future? It's important you talk openly to your caseworker and carers about what you want and how you feel. Ask your caseworker for more detail if you have any questions.



# Cultural plan

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## What is cultural planning?

Cultural planning starts as soon as a child enters care. Cultural planning makes sure children continue to learn about their cultures, belong to their cultural communities and develop a positive cultural identity now and into their future.

A cultural plan outlines how a child will be supported to stay connected to their family, cultures and religion.

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Supporting you to develop a healthy and positive cultural identity is an important part of the Adoption Plan. Your parents, brothers, sisters and other family members all play an important role in developing your cultural plan and helping you to stay connected with your family, communities, cultures and Country.

They will help by giving information about where you come from, your areas of belonging, your family, kinship and community ties.

All cultural arrangements for you including planned activities, will be included in the Adoption Plan. It is important that the arrangements are specific and detailed and promote future connections to cultures.

---

## Who else is involved in my cultural planning?

Where possible, a person important to you and your family will be identified in the Adoption Plan. This person may be a support person, friend, community member or kin who can help you stay connected to your family, communities, cultures and Country after an adoption order is made.



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**Take a moment** Do you understand the purpose and what needs to be included in a Cultural Plan? If no, ask your caseworker.

---

# I've been asked to consent to my open adoption

This section looks at what it means to give consent to your open adoption.

It explains whether or not you have to consent to your open adoption, and what happens if you change your mind.



Key points in this section

## How do I give consent?



- 1 If you are aged 12 years or over, you understand the meaning of giving consent, and you have lived with your carers for at least 2 years, your consent is the only one needed.
- 2 First, you will receive this booklet before you can give your consent to your open adoption.
- 3 If you decide to give your consent, you will talk to a registered adoption counsellor to make sure you fully understand all about open adoption and how it might affect you.
- 4 Then you will be asked to speak with an approved Aboriginal person with experience working with Aboriginal and Torres Strait Islander children. They will provide you with 'adoption counselling' to talk to you about Aboriginal and Torres Strait Islander customs and cultures, and about the alternatives to open adoption.  
  
If you don't want to get the 'adoption counselling', you will be given an additional booklet on Aboriginal and Torres Strait Islander customs and culture to read, and will need to sign a form saying that you have read and understood the information in that booklet. This booklet is called 'Additional written information on open adoption for Aboriginal and Torres Strait Islander children in OOHC and their parents.'
- 5 You can give consent to your open adoption 3 days after having the 'registered adoption counselling', but no more than 30 days after.  
  
If you decide not to have the 'adoption counselling', you will have to wait at least 7 days after you have been given the additional information booklet on Aboriginal and Torres Strait Islander customs and cultures to read.
- 6 You will be given a document called an 'Instrument of Consent' to sign your consent.
- 7 You will also be given a document that lets you take back your consent in case you change your mind.
- 8 At any time, you can change your mind and decide not to consent to your open adoption.

# About consent

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## **Why am I being asked to consent?**

The law puts your best interests first. Your views and wishes are important and will be considered. If you are aged 12 or over, you understand the meaning of giving consent, and you have lived with your carers for at least 2 years, your consent is the only one needed.

## **Don't my parents, my carers and the Minister get a say?**

- The views of your parents are very important, but once you reach a certain level of maturity, the law says that you can decide for yourself.
- The support of your carers is important but they don't have parental responsibility for you which means they won't be asked to give consent.
- The support of the Minister for the Department is also important. The Minister has parental responsibility and needs to be sure that open adoption is in your best interests. However, once you are 12, the legal consent to open adoption is yours to give, not the Minister's.

---

A child can't consent to open adoption when they:

- are under 12 years of age, or
- do not understand what it means to give consent, or
- have been living with their carers for less than 2 years.

## **What about children who are under 12?**

If open adoption is the best care arrangement for a younger child, it won't be 'put on hold' until the child is old enough to consent. In this case, the child's parents will be asked to consent.

If you are going to turn 12 soon, a lot of work can be done before your twelfth birthday so that:

- there is no delay in getting your adoption application ready
- you still get a chance to give your own consent.

## **How can I be sure of what it will mean to give consent?**

An adoption counsellor will talk to you. It is the counsellor's job to:

- explain why you have been given the information in this booklet

- 
- make sure that you understand what it means to give consent
  - make sure that you understand the other choices that could be made – including leaving things the way they are now. See 'Alternatives to open adoption' on page 13.

The counsellor also has another very important job, to help you think about the strong feelings that open adoption can bring.

Choosing to be adopted can be difficult. It is common for children and young people to have mixed emotions. You might have some negative feelings such as loss, guilt, confusion and anxiety as well as the positive feelings of happiness, relief, excitement and a sense of belonging.

The counsellor will help you to recognise that all these feelings are natural. The counsellor works with other children and young people who face similar situations. They will help you think about what lies ahead.

Every child and young person has different levels of emotional maturity. Some are ready to sign a legal document, others are not.

### About consent continued

If the counsellor does not feel that you understand what it means to give consent, you will not be asked for your signed consent. In this case, an open adoption could still go ahead, but first the Court must decide that there are special circumstances and it is best for you.



#### What does it mean to give my signed consent?

- Your signed, witnessed consent is a legal document.
- It will be given to the Court to show your agreement.
- 'Witnessed consent' means a qualified person watches you sign the consent form.

#### What if I don't want to give my consent?

You don't have to. If you decide that open adoption is not right for you, your caseworker will look at different options. This does not mean your care arrangements will change. See 'Alternatives to open adoption' on page 13.

#### How do I consent?

If you decide to give consent to your open adoption, you will be guided through the following steps:

- You must receive a copy of this booklet at least 14 days before giving consent.
- You will receive 'registered adoption counselling' to make sure that you understand what it means to give your consent. See previous section.
- You will also receive 'adoption counselling' by an Aboriginal or Torres Strait Islander person approved by the Department who has experience working with Aboriginal and Torres Strait Islander children. This person will talk to you about growing up within Aboriginal and Torres Strait Islander customs and cultures. If you don't want to receive 'adoption counselling', you won't be able to consent to your open adoption until at least 7 days after being given the booklet called 'Additional written information on open adoption for Aboriginal and Torres Strait Islander children in OOHC and their parents.'
- You will be asked to sign a document that confirms you have either:
  1. Had 'adoption counselling' with an Aboriginal or Torres Strait Islander person, and have read and understood the information in this booklet, or
  2. Did not want the 'adoption counselling' but you have read and understood the information in the booklet called 'Additional written information on open adoptions for Aboriginal and Torres Strait Islander children in OOHC and their parents'.
- You can give consent 3 days (72 hours) after receiving 'registered adoption counselling' but no more than 30 days after. If 30 days has passed since you saw the registered adoption counsellor, you will need to meet with them again before you can give consent.
- You give your consent when you sign a paper called an 'Instrument of Consent'.
- A qualified person, who is not your caseworker or counsellor, must watch you sign your consent.
- You will receive a copy of your signed consent and a paper to fill in if you decide you want to take back your consent.
- Your signed consent is included in the application for your open adoption and sent to the NSW Supreme Court.

# Taking back consent

## What if I change my mind?

You have a right to take back (revoke) your consent to your open adoption at any time before the adoption order is made.

## If I change my mind, how do I take back consent?

You will receive a paper called a 'Revocation notice' when you sign the consent to your open adoption. If you change your mind and want to take back your consent, you need to let the Court know by filling in this paper.

Go to the back of this booklet to take a look at the sample revocation notice.

## How do I make sure the Court knows I have changed my mind?

It's best to get help. You can also take the revocation notice to the Supreme Court yourself, send it by mail or have it delivered. The notice must arrive at the Supreme Court before the adoption order is made. The notice must be in writing and must be fully completed.

The address of the Supreme Court is:

## The Registrar, Equity Division (Adoption Clerk)

Law Courts Building  
184 Phillip Street  
Sydney, NSW 2000

## What if I lose the revocation notice?

It's okay. You can write a letter that clearly says, 'I wish to revoke the consent to my open adoption' with the following details:

- Your full name, address, phone number.
- Your date and place of birth.
- Your carers' names.
- The date you gave consent to your open adoption.
- The agency that manages your care.

Sign and date your letter before sending it to the Court.

## What will happen to me if I revoke consent?

Your wishes and feelings come first. Open adoption will not go ahead if you don't want it to. Things can stay exactly as they are, or your caseworker will look at alternatives to open adoption with your carers. See 'Alternatives to open adoption' on page 13.

## Can I change my mind after an adoption order is made?

No. An adoption order makes you a legal member of the adoptive family for life. It doesn't stop at 18 like orders of guardianship or parental responsibility to the Minister.

This is why you must be sure you want to be adopted – and it is why you are given this booklet, provided with counselling and given the chance to take back your consent any time before the Court makes a decision.



## Who can I talk to about this?

If you need help to take back your consent you can talk with your caseworker, the open adoption agency, or your legal representative. See section 'I'd Like more Information' at the back of this booklet.

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# An adoption application has been sent to Court

This section looks at the Court process.

It explains what happens when your adoption application is at Court, what happens if either one of your parents disagrees with the open adoption, and what the judge does.



Key points in this section

# What happens with my adoption application at Court?

A caseworker lets you and your carers know that an adoption application has been given to the Court.

Your parents get an official notice that the application has been given to the Court.



Your parents have 14 days to tell the Court if they want to oppose (go against) the open adoption. If they do this, the Court sets a date to hear their reasons. This is called a 'hearing'

If your parents don't oppose the open adoption, your adoption application goes to a judge.

The judge looks at the application, decides whether open adoption is the best thing for you, and makes an order.

If your parents oppose the open adoption, there may be a number of hearings before the judge makes a decision. This can take many months.



# The Court process

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## Applying to the Court

Only the Department or an adoption agency can send an adoption application to the NSW Supreme Court. Sending an adoption application to the Court is known as 'filing at Court'.

Your adoption application is prepared by the Department or an adoption agency. There is a lot of information in an adoption application that helps the Court to understand:

- who you are
- things that have happened in your life
- how you've been going since you've been living with your carers
- your views and wishes (including your signed consent)
- your family's views and wishes
- your carers' ability to meet your needs after open adoption, without any caseworker help
- the reasons why the Court is being asked to make an adoption order.

---

## Will I be told when my application is at Court?

Yes. The Department or your agency will let you and your carers know that your adoption application is at Court.

Your parents will get an official notice telling them that an adoption application has been sent to the Court. After that, they will have 14 days to say whether they want to oppose (go against) the application in Court.

Your parents will also get an up-to-date copy of the Adoption Plan. The plan is given to them to make sure that they know about the planned family time with you if an adoption order is made.

---

## What is the role of the judge?

The judge usually looks at all the adoption application papers in the office (in chambers). Sometimes the judge might ask for more information. The next step depends on whether the adoption application is 'contested' (somebody wants to oppose the open adoption in Court).

What happens if my parents don't want to oppose the open adoption in Court?

If no one tells the Court that they want to oppose the open adoption, the judge will make a decision in the office. This includes an adoption order or another order, such as leaving things the way they are.

Sometimes, if your carers request it and the Judge agrees, the judge can set a date for you and your carers to attend the Supreme Court. In this case, the judge can make an adoption order in the Courtroom with you there to see it happen.

### The Court process continued

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#### **What if my parents do want to oppose the open adoption in Court?**

If either of your parents tells the Court in writing that they want to oppose the open adoption, the Court will set a date to hear why they don't agree with it. This can happen even if you have consented to your open adoption.

To give everybody a fair chance, the Court usually needs to set a number of hearings (Courtroom dates). This gives your parents a chance to:

- get legal help
- read the adoption application
- prepare documents that explain why they oppose the application.

---

Open adoption cases are taken very seriously. If your parents tell the Court in writing that they want to oppose the open adoption, you should expect the case to take many months before the Court makes a decision. During this time, your life will go on as usual and you will continue to live with your carers.

During the Court case (sometimes called 'proceedings'), your carers and your parents will probably go and speak with the judge. After the judge hears all the evidence, the judge considers whether open adoption is the best thing for you. Usually, you will not need to go to Court.

---

#### **After the decision**

If an adoption order is made by the judge, the Court sends the official adoption order to your agency. A notice is sent to the NSW Registry of Births, Deaths and Marriages so they know to change your birth certificates.

Your carers, now your adoptive parents, will be given a letter telling them when the adoption order was made. They will also get a copy of your adoption order, your original birth certificate and information on how to apply for your new birth certificates.

If an adoption order is not made, your caseworker will be in touch with you to discuss the decision of the Court and the next steps.



# What are the legal effects of my open adoption?

You become a legal member of your adoptive family.

Your adoptive parents make all the parenting decisions about your upbringing.

You can take your adoptive family's last name if you wish (unless the Court made orders about your name).



You have the right to inherit from your adoptive parents.

You get two new birth certificates.

Your agency and your caseworker will no longer be involved in making decisions about you or your care.

For more detail, go to page 39

## How might my parents feel?

Decisions about open adoption can be hard and at times confusing for parents.

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Feel confident that open adoption is in your best interest.

---

Find it hard that you will have a new identity.

---

Feel all hope is gone to have you back in their care.

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Feel grateful that you are no longer in out-of-home care and you will stay in a safe, loving home.



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Have positive feelings about what open adoption is giving you.

---

Feel relieved that they can continue to stay close to you and have regular family time.

---

Find that family time with you brings a mixture of happiness and sadness.

For more detail, go to page 42

# How might I feel?

It's hard to know. It is likely that you might experience mixed feelings.

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Upset if their parents don't support their open adoption.

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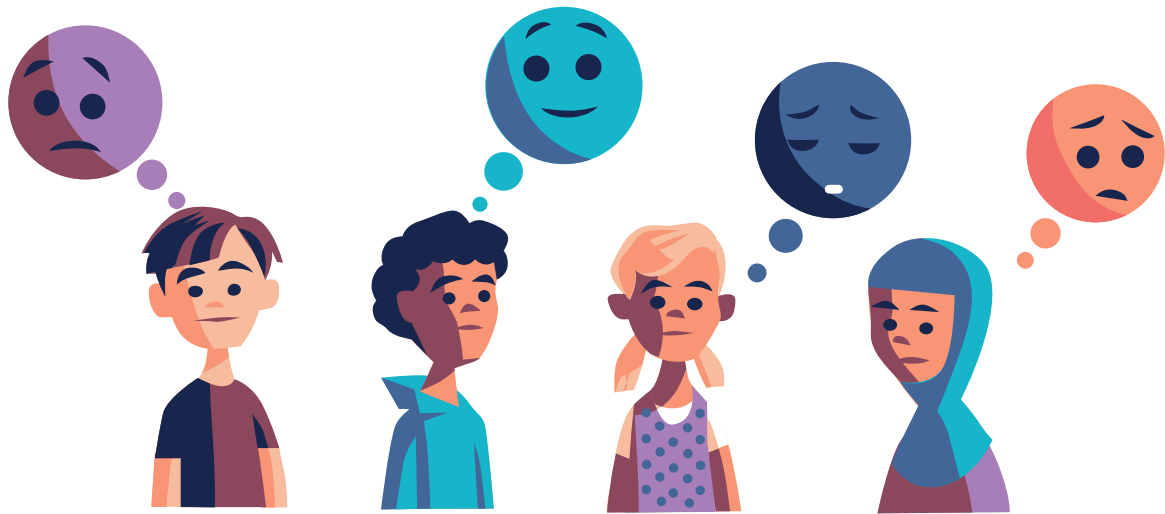
Sad that they couldn't live with their family.

---

They have to try and keep both of their families happy.

---

Confused about who they are.



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They can finally relax because they know for sure where they will live and grow up.

---

They really belong and are part of their adoptive family.

---

Glad that they are no longer a foster child.

---

Glad to know there is a plan to stay connected with their family, if that is their wish.

For more detail, go to page 41

# Adoption orders

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## What happens when an adoption order is made?

An adoption order gives your carers all of the rights and responsibilities of being your parents. It is permanent. Your carers become your adoptive parents and will be your legal parents for the rest of your life.

## Can my parents appeal the decision?

Appeal and discharge (cancelling) of an adoption order are two different things. Your parents can apply to ask for the adoption order to be discharged. But this doesn't happen very often. The only legal reasons for discharging an adoption order are:

- if something seriously dishonest or improper was done to get the consent required for open adoption or get the adoption order made
- some other exceptional reason (something way out of the ordinary).

## What changes as a result of an adoption order?

### New birth certificates

Once an adoption order is made, the Registrar of Births, Deaths and Marriages issues two new birth certificates for you.

1. An amended birth certificate that will say your adoptive parents and any of their children (now your siblings) have been your family since your date of birth.
2. An Integrated Birth Certificate (IBC) that will include information about your birth parents and any birth siblings, as well as your adoptive parents and any adoptive siblings.

Both certificates can be used for legal purposes, giving you the choice to use whichever one you prefer. You can still keep your original birth certificate but it won't be one that you can legally use and will be marked 'not for official purposes'. See 'Introducing Birth Certificates' factsheet at the end of this booklet.

In summary:

- You will no longer be legally related to the members of your family (although you will always be connected by birth).
- You will become a legal member of your adoptive family, and your name may change to reflect this (unless the Court made orders about your name).

---

## Family time (contact)

Open adoption means that as an adopted child, you know as much as possible about who you are and you stay connected to your family and cultures.

After an adoption order is made, the Adoption Plan takes effect. See section 'Adoption plan' on page 22 for information about Adoption Plans.

## Inheritance

Children have a right to receive some of their parents' money and property after their parents pass away.

If you are adopted you:

- have a right to receive some of your adoptive parents' money and property after they pass away
- do not automatically have a right to receive any of your birth parents' money and property after they pass away. They would need to specifically mention you in their will.

## Adoption orders continued

### **What happens if someone wants to change the Adoption Plan after the adoption order is made?**

Sometimes things can change and the Adoption Plan may no longer be best for you.

If this happens, it is best to get the help of a post-adoption service such as the Department's Open Adoption Information Unit. They can help everyone to agree on a new plan without needing to go back to Court. See 'I'd like more information' on page 47.

If a new plan can't be agreed, anyone who is a party to the Adoption Plan (has signed it), including your parents, may be able to apply to the Supreme Court to have the Adoption Plan reviewed.

### **What happens after the Court reviews the Adoption Plan?**

The Court will make an order that they consider is in your best interests and proper in the circumstances.

The Court may:

- order changes to be made to the Adoption Plan, or
- keep the Adoption Plan as it is without changes, or
- revoke (cancel) the Adoption Plan (however this only happens in very rare circumstances). If the Court makes changes to the Adoption Plan, the new plan replaces any previous Adoption Plan.





# Emotional effects of adoption on me

## How might I feel?

It is hard to predict how you will feel after being adopted. Some young people have said that they feel:

- upset if their parents don't support their open adoption
- sad that they couldn't live their life together with their birth family
- worried that they will lose family time with their parents, brothers and sisters, or other important family members
- pulled in two directions, between their birth parents and adoptive parents
- confused about who they are
- worried about 'keeping the peace' between their two families.

Some other children have said that they feel:

- they really 'belong'
- secure and safe, because they now know for certain where they will be staying
- what the law says is the way things really are
- glad that they are no longer a 'foster child' or a 'child in care'
- glad to know there is a plan to stay connected with their birth family, communities, cultures and Country
- more relaxed and happy now that everything has been decided.

If you do have some negative feelings after being adopted, it is natural. It can make a big difference if you connect with people who know what it is like to be adopted or grow up in out-of-home care. It is also helpful to seek counselling and support from organisations who can understand your life story. See section 'Support organisations' on page 48.



# Emotional effects of adoption on my parents

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## How might they feel in the short term?

Parents tell us that when their child has been adopted from out-of-home care, it can be hard for them. Your parents might go through some of the experiences below.

- It can remind them that they lost their parenting rights when you were removed from them and placed in out-of-home care.
- It can upset them that you have new birth certificates and a new family name.
- It can raise their fears about losing family time with you because there is no more agency case management.

Your parents may also have positive reactions. For example, they may be:

- relieved that the legal process is all over
- reassured that you have a permanent and loving home for life

- 
- glad to see that you are the same person, with the same nature, and that open adoption does not change who you are inside
  - confident that open adoption is the best choice for you now and in the future
  - glad that they can continue to stay close to you, have regular family time, and that you stay connected to your communities, cultures and Country.

## How might they feel in the long term?

Your parents will probably always feel some sense of loss. They might go through some of the following.

- Their emotional health may be affected and they may need to get counselling or support.
- Ongoing family time means that they will not have to wonder how you are or what you look like, but it is a constant reminder that someone else is taking care of you.

- 
- It can be difficult to deal with the fact that you have two sets of parents.
  - Family time may bring a mixture of happiness and sadness. They might go through stages where they find it hard to keep up meeting with you – not because of their feelings about you but because they feel so much loss and regret.

They may also feel:

- growing confidence that family time will not be 'taken away' and that you will always be a part of their life
- positive about the things you are achieving and the future that you have
- that they can move on positively with their own lives and not be 'stuck in the past' and the feelings of that time.

## Emotional effects of adoption on my parents continued

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### **How might my parents feel about my adoptive parents?**

Your parents' relationship with your adoptive parents may be difficult at times. Your parents may have feelings of hurt or anger towards them for having you in their care.

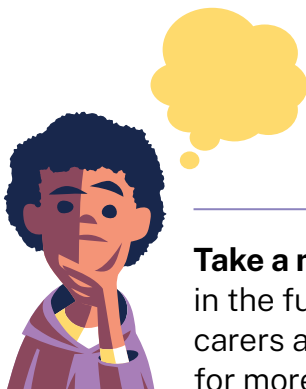
It is important to remember that your adoptive parents will be ready for situations like these. They will know that things can go up and down and they won't be surprised if it is sometimes hard to get on with members of your birth family.

They have agreed to support open adoption. They will know that bad feelings are not likely to be as strong if your birth parents are able to keep up family time with you.

If family time is going well and as planned, your birth parents may also have a good relationship with your adoptive parents.

### **How might they feel about me?**

Some parents feel positive about the benefits of open adoption for their child. For example, some parents agree to open adoption because they feel that their child is happy and well looked after. They may be getting on well with your adoptive parents. They may also have comfort in knowing that you will stay with a family who will always love you and take care of you.



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**Take a moment** Do you have any questions about family time now or in the future? It's important you talk openly to your caseworker and carers about what you want and how you feel. Ask your caseworker for more detail if you have any questions.

# Information sharing in an open adoption

## Information sharing in an open adoption

In an open adoption, parties are able to give and receive important information about each other. This information can help parties understand each other better and allow relationships to grow.

If you are adopted, the Department will send you the booklet called 'Adoption Act 2000: How it affects you'. This booklet has information about:

- who can receive information about you
- what information you can get about your birth parents and siblings, if you have any.

There are different types of information you can get, depending on whether you are under or over 18 years of age when you are asking for it. The booklet will provide more detail, but here are the key facts.

- You can know about your birth parents and their cultures. This can help you develop a full sense of identity.
- Your birth parents and siblings can know about your life. This can help to ease worries your birth parents and siblings may have about whether you are safe, well and happy.
- You are all able to connect with each other and form relationships.
- If your adoptive parents know information about your birth parents and their cultures, they will be able to share with you and answer questions you may have about your birth parents and cultures.

## Remember

In open adoptions, it is ideal if you can:

- meet regularly with your birth family
- share news and information freely.

You and your adoptive parents might be very happy for this to happen. However, the law protects your privacy if that is what you need. The information below tells you more.



### Information sharing in open adoption continued

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#### **What different types of information are there?**

There are two different types of information; non-identifying information which is information that does not reveal who a person is, and identifying information which is information that reveals who a person is.

#### **What information can my birth family get about me?**

##### **Non-identifying information:**

If you are adopted, the law lets your birth parents be able to request social and medical information about you at any time, as long as it doesn't reveal who you are.

The non-identifying information that they may receive can include information about your life before you were adopted, and your:

- physical and intellectual qualities
- education and job qualifications
- social and cultural background
- health and welfare
- family and other relationships
- religious beliefs
- hobbies and interests.

##### **Identifying information:**

If you are adopted, some identifying information about you may be provided to your birth parents when you are over 18. Identifying information can include you:

- name
- date of birth
- address at the time the open adoption was arranged.

If you are under the age of 18, your birth parents will need to apply to the Department if they want information that reveals who you are. The Department will need to make an assessment to make sure that giving them information about you would not pose any risk to your safety, welfare or wellbeing or to your adoptive parents.

Some documents that have identifying information about you are:

- new birth certificates (amended birth certificate and integrated birth certificate)
- birth record and adoption order – this document will have your before and after adoptive names, and the names of all the people involved in your open adoption.

##### **What information can my birth siblings and other relatives get about me?**

If you are adopted, your birth siblings are allowed to apply for non-identifying information about you if you are under the age of 18, if certain requirements are met. They must get permission before they can obtain such information. They can also get some identifying information about you once you turn 18.

Your other relatives must get permission before they can gain any kind of information about you.

##### **What information can I get about my birth parents?**

After an adoption order is made, your adoptive parents will be given a copy of the adoption Court order and your original birth certificate. These documents will record the names of your birth parents and may record their address at the time of your birth. If you are under 18, and want more information, you will first need to get the permission of the Department or your adoptive parents. If you are 18 or over, you don't need permission. You can apply directly for information from the Registry of Births, Deaths & Marriages, or from the Department, or from any other agency that might have the information you want.

### Information sharing in open adoption continued

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#### **What information can I get about my brother or sister?**

If you are adopted, you can apply for information about your birth siblings, including information that reveals who they are. If you are under 18, you will first need to get the permission of the Department or your adoptive parents. If you are 18 or over, you don't need permission. You can apply directly for information from the Registry of Births, Deaths & Marriages, or from the Department, or from any other agency that might have the information you want.

#### **What support services are available after an adoption order is made?**

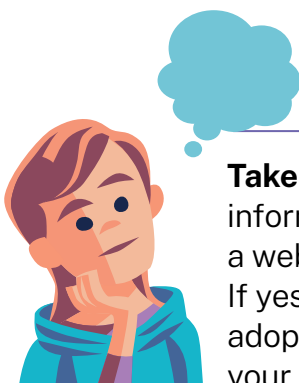
Information and support can be provided to you, your birth parents and your adoptive family by the Department's Open Adoption Information Unit or the adoption agency.

For contact details of other post-adoption services, see section 'I'd like more information' on page 47.

#### **Reunion and Information Register (RIR)**

People who have been separated by an adoption or lost contact with a family member and want to make contact or exchange messages with a family member, can put their name on this register. When there is a matching registration of two or more people on the register, an Adoption Information Unit (AIU) caseworker can help them to make contact with each other or pass on a message.

You can speak with an AIU caseworker to find out how to have your name entered on the Register.



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**Take a moment** There are a number of rules about getting information after open adoption. Would you like to save a webpage where you can find this information when you need it? If yes, go to the Department's page 'Finding information on past adoptions' (websearch: past adoptions nsw) and bookmark it or ask your caseworker to explain.

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# I'd like more information



## I'D LIKE MORE INFORMATION

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### Open adoption service providers

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#### **Communities and Justice Open Adoption and Permanency Services**

The NSW Government's open adoption service.

**Email:** adoption.permanentcare@facns.nsw.gov

**Websearch:** adoption nsw

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#### **Communities and Justice Adoption Information Unit (AIU)**

Provides services to people after an open adoption happens, including adopted people and their families.

**Email:** adoption.information@facns.nsw.gov.au

**Websearch:** past adoptions nsw

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#### **Communities and Justice Open Adoption Hotline**

Gives information to people in the community about how open adoption happens.

**Online enquiry form:** obtained on the Department's website

**Websearch:** open adoption hotline

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#### **Anglicare**

A non-government agency that provides open adoption services.

**Email:** adoption@anglicare.org.au

**Websearch:** anglicare foster care adoption

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#### **Barnardos Australia**

A non-government agency that provides open adoption services.

**Email:** info@barnardos.org.au

**Facebook:** Barnardos Australia

**Websearch:** open adoption barnardos

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#### **Family Spirit**

A non-government agency that provides open adoption services.

**Facebook:** Family Spirit NSW

**Email:** adoptions@familyspirit.org

**Websearch:** family spirit adoption

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#### **Key Assets**

A non-government agency that provides open adoption services.

**Email:** info@keyassetsnsw.com.au

**Websearch:** key assets

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#### **Life Without Barriers**

A non-government agency that provides open adoption services.

**Email:** info@lwb.org.au

**Facebook:** lwb

**Websearch:** lwb

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#### **Wesley Mission**

A non-government agency that provides open adoption services.

**Email:** dalmar@wesleymission.org.au

**Websearch:** Wesley mission adoption

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## I'D LIKE MORE INFORMATION

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### Support organisations

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#### Post Adoption Resource Centre (PARC)

Provides information, counselling and support to people affected by adoption. PARC also has a bookshop and library with information on open adoption.

**Email:** [customer care@benevolent.org.au](mailto:customer care@benevolent.org.au)

**Websearch:** parc adoption

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#### Create Foundation

Represents children and young people who have been in out-of-home-care. They can also connect these children and young people with one another.

**Phone:** 1800 655 105

**Email:** [info@create.org.au](mailto:info@create.org.au)

**Facebook:** Create Foundation

**Websearch:** Create Foundation

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#### Kids Helpline

Free service that provides 24/7 phone and online counselling for children young people aged 5 to 25.

**Phone:** 1800 55 1800

**Websearch:** Kids Helpline

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#### eheadspace

A confidential online and telephone service for young people aged 12-25 years who want to get in touch with a youth mental health worker. See their website for email and online chat support.

**Facebook:** [headspaceAustralia](https://www.facebook.com/headspaceAustralia)

**Websearch:** eheadspace

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#### Grandmothers Against Removal NSW (GMAR)

Advocates for the wellbeing of Aboriginal children and young people particularly their right to remain within their own families, communities and culture.

**Email:** [contact@grandmothersagainstreplacements.com](mailto:contact@grandmothersagainstreplacements.com)

**Websearch:** grandmothers against

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#### NSW Advocate for Children and Young People

Works to improve the welfare of all children and young people in NSW and speaks up for them.

**Email:** [acyp@acyp.nsw.gov.au](mailto:acyp@acyp.nsw.gov.au)

**Facebook:** [www.facebook.com/acypNSW](https://www.facebook.com/acypNSW)

**Websearch:** acyp nsw

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#### Relationships Australia

Provides counselling and mediation services to support families, including online counselling and Aboriginal counselling.

**Email:** [enquiries@ransw.org.au](mailto:enquiries@ransw.org.au)

**Websearch:** Relationships Australia NSW

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## I'D LIKE MORE INFORMATION

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### Legal advice

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#### Aboriginal Legal Service (ALS) NSW/ACT

Provides a range of legal support in children's Care and Protection law, Family law and Criminal law. ALS assist Aboriginal and Torres Strait Islander families through representation in Court, advice and information, and referral to further support services.

**Phone:** 1800 733 233

**Websearch:** Aboriginal legal service

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#### Law Access NSW

A telephone-based legal information and referral service.

**Phone:** 1300 888 529

**Websearch:** law access

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#### Legal Aid NSW

Provides a free legal advice service at all Legal Aid offices. Legal representation is available in most areas of the law subject to a means and merit test. Appointments must be made for advice. If your adoption matter is in Court, contact the adoptions clerk at the Supreme Court to find out whether a lawyer will be at court to help you.

**Phone:** 1300 679 272.

**Websearch:** legal aid nsw

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#### Community Legal Centres

Free legal services to people who need help with housing, fines, and family matters.

**Email:** clcnsw@clcnsw.org.au

**Facebook:** Community Legal Centres NSW

**Websearch:** clcnsw

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#### Community Justice Centres

Provides free mediation services to help people solve disagreements, including family members and former partners.

**Email:** cjc\_info@agd.nsw.gov.au

**Websearch:** community justice centres

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#### Intellectual Disability Rights Service

Provides help with legal problems, including support for people at police stations and Courts, and people at risk of losing care of their children.

**Email:** IntakeJAS@idrs.org.au

**Websearch:** idrs

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#### Financial support services

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##### Centrelink

Delivers a range of payments and services for people at times of major change. Contact Centrelink to enquire about what payments and services you may be entitled to.

**Websearch:** Centrelink

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#### Members with personal experience of adoption

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##### Adoption and Permanent Care Association of NSW (APA)

Offers support via Facebook for individuals and couples and wanting to be permanent carers and adoptive parents to children in NSW.

**Facebook:** APA NSW

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# Attachments to read with this booklet

- **Integrated Birth Certificate factsheet**  
Information on the new birth certificates issued when an adoption order is made.
- **Sample Consent and Revocation forms**  
Please do not fill out or sign these forms as they are samples only.

If you decide to consent or take back (revoke) your consent, you will be given the actual forms.

The sample forms in this section include:

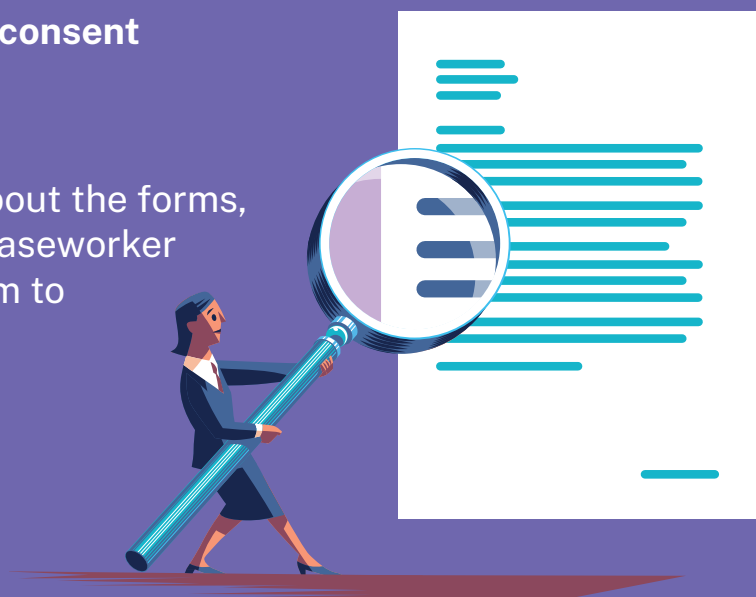
## **Providing consent to your open adoption**

- Statement of a counsellor
- Statement of person qualified to witness a consent
- Sole Consent to adoption by a child who has attained the age of twelve years
- Statement of a person qualified to witness consent at the time consent is signed

## **Taking back (revoking) consent to your open adoption**

- Revocation Notice

If you have questions about the forms, you can talk with your caseworker or a lawyer and ask them to explain the details.



# Introducing Integrated Birth Certificates for adopted people

The Adoption Legislation Amendment (Integrated Birth Certificates) Bill 2020 authorises the issuing of Integrated Birth Certificates to adopted persons in NSW by amending the Adoption Act 2000 and the Births, Deaths and Marriages Registration Act 1995.

### What is an integrated birth certificate?

An Integrated Birth Certificate (IBC) is a new form of birth certificate that includes information about an adopted person's parents and siblings at birth, as well as their parents and siblings after adoption.

### Why is this reform being introduced?

When an adoption order is made in NSW, the Registrar of Births, Deaths and Marriages (BDM) issues a post-adoptive birth certificate for the adopted person. The new birth certificate that is issued, records the child's adoptive parents and makes no reference to the child's parents at birth.

Post-adoptive birth certificates are consistent with the legal effect of adoption but do not reflect contemporary "open" adoption practices, which promotes connection to birth family and cultural heritage wherever possible.

An IBC better reflects the full identity of an adopted person.

### Will IBCs be recognised as a legal document?

An IBC and post-adoptive birth certificate are both valid identity documents, allowing an adopted person to use whichever birth certificate they prefer for legal purposes.

### What would happen when the Bill commences?

Where a person is adopted and the adoption is registered in NSW, the Registrar of BDM will automatically issue both a post-adoptive birth certificate and an IBC.

People adopted prior to the commencement of the reform will be able to apply for an IBC.

### How do people adopted before the commencement of the reform apply for an IBC?

If the person was adopted on or after 1 January 2010:

- The Registrar of BDM can issue an IBC to the adopted person on application. The consent of the person's adoptive parents will be required if they are under 18 years of age.

If the person was adopted before 1 January 2010:

- The Registrar of BDM will require an Adoption Information Certificate from the Department of Communities and Justice before issuing an IBC to the adopted person. If the person is under 18, the application can only be made with the consent of their adoptive parents and birth parents.

Adoptive parents and birth parents can also apply for an IBC in certain circumstances.

### For more information visit

Registry of Births, Deaths & Marriages  
[www.nsw.gov.au/births-deaths-marriages](http://www.nsw.gov.au/births-deaths-marriages)

Department of Communities and Justice  
[www.facs.nsw.gov.au/families/adoption](http://www.facs.nsw.gov.au/families/adoption)

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

## STATEMENT OF COUNSELLOR

(Child 12 or more years of age giving consent)

ADOPTION ACT 2000 (NSW) Section 55(1)(b), 61 & 63

I certify that I have:

- Provided counselling in relation to
  - the legal effect of signing the instrument of consent,
  - the procedure for revoking consent,
  - the effect of the mandatory written information,
  - the emotional effects of adoption and
  - the alternatives to adoption

to the following child/young person ("child"):

\_\_\_\_\_

first middle name/s last  
(full legal name of child)

born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_

number month year

at \_\_\_\_\_ in the State of \_\_\_\_\_

(place of birth)

on \_\_\_\_\_

(date/s counselling took place)

I certify that the above named child understands the effects of signing the instrument of consent to Adoption pursuant to section 61(3) of the *Adoption Act 2000*.

I certify that on this day I am on the Register of Counsellors in accord with Clause 78 of the Adoption Regulation 2015.

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

I am the above named child. I have received counselling as described above.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

## STATEMENT OF PERSON QUALIFIED TO WITNESS A CONSENT (IMMEDIATELY BEFORE CONSENT IS SIGNED)

(Where the child is 12 or more years of age)

ADOPTION ACT 2000 (NSW) Section 62(2), 184 & 185  
ADOPTION REGULATION 2015 (NSW) Clause 81 & 82

I, \_\_\_\_\_  
first middle name/s last  
(full legal name of person)

of \_\_\_\_\_  
(full address - number, street, suburb, state)

declare that:

1. I am a \_\_\_\_\_  
(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.

2. I confirm I am not an officer of the Department, or an employee of an accredited adoption service provider who is the caseworker for the proposed adoptive parents.

3. I confirm I am not the registered counsellor of the person signing this instrument.

4. I certify I have sighted the following document(s) to confirm the identity of the person named below who is giving consent:

\_\_\_\_\_

5. I confirm I am not aware of any mental, emotional or physical unfitness of the person named below to give consent.

6. I certify I am satisfied that:

\_\_\_\_\_ first middle name/s last  
(full name of person giving consent)

- Has been provided with a copy of the instrument of consent and the mandatory written information at least 14 days before the consent was signed ; AND
- Has been given ample opportunity to read the instrument of consent and mandatory written information and understands the effect of signing the consent ; AND
- Has been counselled within the prescribed period (not more than 30 days or less than 72 hours before giving consent) and understands the effects of giving consent; AND
- Is signing the consent free from any threat, inducement or influence of the kind as set out in section 184 of the *Adoption Act 2000*.

7. I confirm I have sighted (*strike out and initial paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent*):

- (where the person giving consent is under 18 years of age) a report prepared by \_\_\_\_\_ (a counsellor or other appropriate expert), dated \_\_\_\_\_, stating that the above named person is capable of understanding the effect of the consent.
- (where the child is Aboriginal)
  - a “Statement of Aboriginal Counselling” dated \_\_\_\_\_ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; OR

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

- a “Statement – Refuse Aboriginal Counselling” dated \_\_\_\_\_ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Aboriginal customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.
- (where the child is Torres Strait Islander)
  - a “Statement of Torres Strait Islander Counselling” dated \_\_\_\_\_ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
  - A “Statement – Refuse Torres Strait Islander Counselling” dated \_\_\_\_\_ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Torres Strait Islander customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.

Signature of witness: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

## WHO CAN WITNESS AN ADOPTION CONSENT

The following persons are prescribed in Clause 81 of the *Adoption Regulation 2015* (NSW) to witness a consent to adoption:

- (a) if the instrument is signed in New South Wales:
  - (i) the Secretary  
Delegates of the Secretary include Family and Community Services Caseworker, Casework Specialist, Manager Casework or Manager Client Services.  
NB: Clerical/Administrative staff of Family and Community Services are not delegated to witness a consent.
  - (ii) an independent lawyer  
Consent to adoption is not to be witnessed by the lawyer who acts for the applicant(s) for an adoption order in respect of the child who is the subject of the consent, or by any partner or employee of the lawyer.
  - (iii) a principal officer of an accredited adoption service provider.
  - (iv) a registered counsellor (under Clause 81 *Adoption Regulation 2015*)(not being the counsellor of any person signing the instrument or a person who is not independent of such a counsellor)

Consent to adoption is not to be witnessed by an Officer of the NSW Department of Family & Community Services or the employee of an accredited adoption service provider or designated agency who is the caseworker for a person adopting the child.

- (b) if the instrument is signed in another State or in a Territory: a person authorised by the law of that State or Territory is to witness a consent to the adoption of a child.
- (c) if the instrument is signed outside of Australia :
  - (i) an Australian Consular officer as defined in section 26 of the Oaths Act 1900
  - (ii) a judge of a court or magistrate of that place
  - (iii) a person authorised by the law of that place to attest to a consent to the adoption of a child.

## OFFENCES

It is an offence under Section 177 of the *Adoption Act 2000* for any person to give or receive payment or reward in relation to the giving or signing of consent to adoption.

It is an offence under Section 184 of the *Adoption Act 2000* to use any force or threat to influence a person or child to sign or not to sign an instrument of consent.

It is an offence under Section 185 of the *Adoption Act 2000* for a person to witness a consent without being satisfied that the person signing the consent is a parent or guardian of the child, that the person is signing free from any threat, inducement or influence, that the person understands the effect of the consent and that the consent bears the date on which it is signed by the person giving the consent.

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

## SOLE CONSENT TO HIS OR HER ADOPTION BY A CHILD WHO HAS ATTAINED THE AGE OF TWELVE YEARS

ADOPTION ACT 2000 (NSW) Section 54(2) & 55  
ADOPTION REGULATION 2015 (NSW) Clause 80

I, \_\_\_\_\_  
first middle name/s last  
(full legal name of person giving consent)

of \_\_\_\_\_  
(full address - number, street, suburb, state)

born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

at \_\_\_\_\_ in the State of \_\_\_\_\_  
(suburb/city)

give consent to the making of an adoption order in respect of me in favour of:

\_\_\_\_\_ and  
first middle name/s last  
(full legal name of proposed adoptive parent)

\_\_\_\_\_ and  
first middle name/s last  
(full legal name of proposed adoptive parent)

and have cared for me/I have lived with and/or have had a relationship with for \_\_\_\_\_ years

of \_\_\_\_\_  
(full address – number, street, suburb, state)

who is/are my \_\_\_\_\_  
(state relationship with proposed adoptive parent eg. authorised carer, step parent, aunt, uncle)

I received a copy of the mandatory written information on \_\_\_\_\_ (being at least 14 days before this day).

I received counselling pursuant to section 63(1) of the *Adoption Act 2000* on \_\_\_\_\_ (being no more than 30 days and no less than 72 hours before this day).

In giving consent to my adoption I have been informed and understand:

On the making of an adoption order, the proposed adoptive parents will become my legal parent/s and for all legal purposes I will be considered to be her/his/their child.

On the making of an adoption order, an amended birth certificate will be issued by the Registry of Births, Deaths and Marriages which will record my name/s as the one/s I have requested below, if so ordered by the Court, and will not record any details of my birth parents or birth siblings.

I have the right to revoke (withdraw) my consent for adoption at any time before the adoption order is made. I can do this by giving notice in writing to the Registrar of the Equity Division, Supreme Court, Queens Square, Sydney, NSW.

I understand that if the Court is not satisfied that my best interests will be promoted by adoption the Court has the power to make alternate orders in relation to the parental responsibility for me, for example a parenting order under the Family Law Act or an order declaring me to be under the parental responsibility of the Minister.



# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

The rights of an adopted person under the *Adoption Act 2000*.

I request that on the making of an Adoption Order my name will be:

\_\_\_\_\_

first middle name/s last  
(full legal name to be recorded on the amended birth certificate)

***Strike out and initial the paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent:***

• I hereby request and authorise:

- the Secretary of the NSW Department of Family & Community Services; OR
- the Principal Officer of \_\_\_\_\_

(Name of Accredited Adoption Service Provider)

to make arrangements for my adoption.

- I am under 18 years of age. I have met with a counsellor or other appropriate expert regarding my capacity to understand the effect of this consent.
- I am Aboriginal. In accordance with section 64 of the *Adoption Act 2000*,  
I have been given adoption counselling prior to signing the instrument of consent; OR  
I have been offered adoption counselling but refused it. I have been provided with written information on Aboriginal customs and culture on \_\_\_\_\_  
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- I am Torres Strait Islander. In accordance with section 65 of the *Adoption Act 2000*,  
I have been given adoption counselling prior to signing the instrument of consent; OR  
I have been offered adoption counselling but refused it. I have been provided with written information on Torres Strait Islander customs and culture on \_\_\_\_\_  
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.

Signature of person giving consent: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ year  
number month year

Signature of Witness: \_\_\_\_\_

Qualification: \_\_\_\_\_

(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.





We acknowledge Aboriginal and Torres Strait Islander people as the First Nations Peoples of Australia and pay our respects to Elders past, present and future. We acknowledge the ongoing connection Aboriginal and Torres Strait Islander people have to this land and recognise Aboriginal and Torres Strait Islander people as the original custodians of this land.