

Adoption from Care Policy

1. Purpose

The purpose of this policy is to ensure that adoption is considered as a permanency option for children and young people in care where it is in their best interests, with the exception of Aboriginal or Torres Strait Islander children and young people where the Aboriginal and Torres Strait Islander Child Placement Principle will be applied.

2. Scope

This policy applies to all Department for Child Protection (DCP) staff responsible for determining permanency arrangements for children in care and for completing the process for adoption. This also includes staff from any non-government organisations who are involved with these processes.

3. Authority

3.1 Legislative context

- *Adoption Act 1988* (Adoption Act)
- *Adoption (General) Regulations 2018* (Adoption Regulations)
- *Children and Young People (Safety) Act 2017*
- *Children and Young People (Safety) Regulations 2017*.

3.2 Whole of Government requirements

Not applicable.

3.3 DCP requirements

- [Aboriginal and Torres Strait Islander Child Placement Principle](#).
- National Permanency Guiding Principles.
- Memorandum of Administrative Arrangement between DCP and the South Australian Registrar of Births, Deaths and Marriages.
- Memorandum of Administrative Arrangement between DCP and the Legal Services Commission.

3.4 Principles

This policy is informed by the objects and guiding principles under the Adoption Act and by the National Permanency Principles. These include:

- All decisions are made in the best interest of the child or young person.
- The child or young person's views must be taken into account.
- Openness in adoption is encouraged. If contact with the birth family is not appropriate or possible, the child or young person should have knowledge of their birth family and cultural heritage.
- Decisions to occur in a timely manner.

4. Policy requirements

Children and young people in care deserve the opportunity to form secure, long-term relationships and attachments with their carers to help them thrive and reach their full potential. DCP has expanded the permanent care options for children and young people in care to include adoption from care.

4.1 Adoption as part of permanency planning

[Permanency planning](#) is a core element of DCP practice. Adoption will be actively considered for each child or young person as part of this process, along with other options such as a Long-term Guardianship (Specified Person) order (LTGSP) or kinship care. The possibility of adoption as a permanency outcome for a child or young person must be supported by the child or young person (depending upon their age and developmental capacity) and their carer.

4.2 Eligibility

Carers who wish to adopt must be a couple who have been living together for five continuous years (section 12(1) of the Adoption Act). Both carers must be permanent residents of Australia and at least one of the carers must also be an Australian citizen.

Single person adoption can only occur if the Youth Court is satisfied that there are special circumstances justifying the adoption order (section 12(3) of the Adoption Act).

Adoption will be considered for children and young people in care, where eligible carers (with some exceptions) have an **established relationship** with a child or young person in their care.

This means adoption will be considered where carers have a child or young person in their care under the following orders:

- Long-term Guardianship (Specified Person) order
- Long-term Guardianship of the Chief Executive order.

An **established relationship** is defined as when:

- a child or young person is, pursuant to an order of the Court under the *Children and Young People (Safety) Act 2017 (SA)* or the *Children's Protection Act 1993*, under the guardianship of the Chief Executive, or another person or persons, until they attain 18 years of age, and
- the child or young person has been in the care of eligible carers for a period of at least two years (or such shorter period as the Chief Executive may determine), and
- the child or young person has developed an attachment to the eligible carers.

Exceptions to the established relationship requirement will only be made on a case-by-case basis where it is in the best interest of the child or young person and only in special circumstances or where the relevant circumstances of the case require it. For example, an exception may be made for an infant where siblings have been or are being adopted.

The following persons are **eligible carers**:

- a person under whose guardianship (whether solely or with another person) a child or young person is placed until they attain 18 years of age by order of the Court under the *Children and Young People (Safety) Act 2017 (SA)* or the *Children's Protection Act 1993*

- an approved carer under section 72 of *Children and Young People (Safety) Act 2017* (SA) in whose care a child or young person (who is under the guardianship of the Chief Executive until they attain 18 years of age) has been placed.

4.3 Aboriginal or Torres Strait Islander children and young people

Aboriginal or Torres Strait Islander children or young people will not be adopted from care. For Aboriginal or Torres Strait Islander children and young people in care the [Aboriginal and Torres Strait Islander Child Placement Principle](#) applies.

At any point during the adoption from care process, if a child or young person is found to be of Aboriginal or Torres Strait Islander descent, the process will stop and the child or young person will not be adopted from care. For example, if a previously unknown birth father is identified through the adoption from care process as an Aboriginal or Torres Strait Islander, the adoption process will stop.

4.4 Children from culturally and linguistically diverse (CALD) communities

Adoption from care for CALD children and young people requires special consideration in relation to the child or young person's culture and that of the prospective adoptive parents. Consultation with DCP Multicultural Services and relevant community consultation will inform decision making in relation to placement-matching and maintaining cultural connections in the placement prior to adoption.

4.5 View of the child or young person

Decision making regarding adoption from care must, throughout the entire process, take into account the views of the child or young person where they are developmentally capable of expressing their view. To assist the child or young person in expressing their views and wishes, children and young people will be provided with clear, age-appropriate information about the nature of adoption and how it will impact their lives.

For young people over twelve, their consent is required for the adoption order to be made.

4.6 Assessments

As part of case planning, an assessment about the appropriateness of adoption for the child or young person will occur, including the child or young person's wishes.

If adoption from care is identified as suitable, further assessments by DCP will occur in accordance with the Adoption Act.

4.7 Planning –adoption plan

Every child or young person who is adopted from care must have an adoption plan (section 26A of the Adoption Act). The adoption plan must consider the child or young person's views and be written in consultation with the proposed adoptive parent(s) and, where possible, the birth parent(s). Where birth parents cannot or will not agree to an adoption plan, an adoption plan should still be written in consultation with the prospective adoptive parents.

The adoption plan is a voluntary agreement that will outline the provision of information and contact or any other matters related to the welfare of a child or young person between the parties to the adoption. The final plan will be uploaded to C3MS as a record.

4.8 Financial payments following the granting of an adoption order

It is acknowledged that some adoptive parents will require financial support. Once an adoption order is granted, applications for ongoing financial support will be considered by DCP on a case-by-case basis. Adoptive parents who obtained an adoption order which is not supported by DCP will not be eligible for financial assistance.

To be eligible for ongoing carer payments, adoptive parents will need to meet the requirements of Family Tax Benefit A. Payments will be managed in accordance with the [Carer support payment \(family-based\) procedure](#) and are indexed accordingly.

If the child or young person has been assessed as having special needs, the adoptive parents will continue to receive special needs loading on top of their base rate payment. A formal assessment will be undertaken if this needs to be reassessed.

Ongoing carer payments and any special needs loading for a child or young person adopted from care will end on the day the young person turns 18 years old.

If the child or young person is removed from the adoptive parents care due to child protection concerns and in accordance with *Children and Young People (Safety) Act 2017*, any carer payments or special needs loading will cease as soon as the child or young person is removed.

Adoptive parents who are not eligible for Family Tax Benefit A or who chose not to apply for ongoing carer payments, are eligible for a once off transition payment of \$3,000 at the commencement of the adoption order followed in each subsequent year by an annual payment of \$1,500.

The last annual payment of \$1,500 will occur the year of the young person's 18th birthday. The transition payment of \$3,000 will only be paid at the beginning of an adoption order and will not be paid if the adoptive parents move to the annual payments should they no longer be eligible for Family Tax Benefit A or choose to do so.

Adoptive parents can apply for financial support at any point including after the commencement of the adoption order if they become eligible for Family Tax Benefit A.

Financial support will only be provided while the child or young person resides with the adoptive parents in South Australia.

4.9 Additional financial support

Applications for additional financial support will be considered in circumstances where DCP has an existing and ongoing arrangement to pay for a child or young person's private school fees and/or specialist therapeutic interventions. These payments will be funded through the [Exceptional Resource Funding Procedure](#) from the pool of funding allocated to each office.

Adoptive parents are not eligible for the education grant and the activity grant. Adoptive parents are also not eligible for any further financial support from DCP once the young person turns 18 years old, including the Stability in Family-Based Care program and Over 18 Education Initiative.

4.10 Annual review of financial support

An annual review of any financial support received by adoptive parents will take place in the August of each year after the adoption order is made. The first annual review will occur in the first financial year after the adoption order is made. For example, if an adoption order is made in May, an annual review will take place in the August of the same calendar year (i.e. the next financial year).

If the adoptive parents are no longer eligible for Family Tax Benefit A at the time of the annual review (based on their recent tax return) then the carer payments and any special needs loading will cease and

the adoptive parents will instead receive the annual payment of \$1,500.

Alternatively, if adoptive parents are eligible or continue to be eligible for Family Tax Benefit A at the time of the annual review (based on their recent tax return) then they will either begin or continue to receive the ongoing carer payments.

At the beginning of each calendar year, adoptive parents must apply to renew any existing arrangements for DCP to pay private school fees and/or therapeutic services pursuant to the [Exceptional Resource Funding Procedure](#) from the pool of funding allocated to each office.

4.11 Change in living arrangements

If the child or young person's living arrangements change or they stop being in the adoptive parents' full-time care, the adoptive parents must notify DCP.

4.12 Court process

DCP will assist the child or young person and carer through the court process by providing funding for legal representation and support services as required.

DCP will reimburse carers for the Youth Court's filing fee for an adoption application regardless of the outcome of the application.

4.13 Fee waiver

DCP will waive the DCP fees and charges associated with the adoption process.

4.14 Integrated birth certificates

Once an adoption order is granted, the child or young person is provided with a new birth certificate by Births, Deaths and Marriages that removes their birth parents' names and lists the adoptive parents as the legal parents.

It is also possible to obtain an integrated birth certificate that shows the child or young person's new name and the adoptive parents as the legal parents as well as the child or young person's original birth name and birth parents. When the young person turns 18, they can apply for an integrated birth certificate with Births, Deaths and Marriages. The child or young person can obtain an integrated birth certificate before they turn 18 if the birth parents and adoptive parents agree to this.

Where possible, DCP will seek to obtain a consent notice under section 41(3) of the Adoption Act signed by both the birth parents and adoptive parents. In accordance with the Memorandum of Administrative Arrangement between DCP and the South Australian Registrar of Births, Deaths and Marriages, DCP will provide the signed consent notice to the Registrar.

4.15 Information booklets

Birth parents, legal guardians and young people twelve years and older will be provided with an information booklets explaining consent, the process for adoption and their rights under the legislation.

4.16 Post adoption services

DCP will provide or make available post-adoption support for the child or young person and carers involved in the adoption process, currently through Relationships Australia.

Children and young people adopted from care will continue to receive the education and health services,

services through *Investing in their future*, including therapeutic supports they require. Continuation of such services are critical to addressing the impacts of the harm that these children and young people have experienced.

4.17 Future child protection matters

Any future allegation of harm where the alleged perpetrator is the adoptive parent or a family member of the adoptive parent will be recorded, assessed and investigated by DCP (if required) as per standard operating procedures at the Child Abuse Report Line.

4.18 Discharge of adoption orders

Section 14 of the Adoption Act provides for the discharge of adoption orders in limited circumstances. Adoption orders may be discharged by the Court on the grounds that it is in the best interests of the adopted person to do so or where the order, or the consent to the order, was obtained by fraud, duress or other improper means. An order discharging an adoption order may be made regardless of the age of the adopted person.

DCP will only make an application for an adoption order to be discharged in relation to a child or young person adopted from care where exceptional circumstances exist, the child or young person is still under the age of 18 and has been placed back under the guardianship of the Chief Executive.

If an adult adoptee who was adopted from care seeks to have their adoption order discharged, DCP will be involved only to the extent necessary to comply with its obligations under the section 14 of the Adoption Act and regulation 21 of the Adoption Regulations to investigate the circumstances of the case and provide the Youth Court with a report.

In all cases, DCP will ensure that the investigation required under the Adoption Act is not conducted by a person who has or is perceived to have a conflict of interest due to their earlier involvement with the parties to the adoption.

5. Compliance, monitoring and evaluation

This policy will be regularly updated through reviews every three years.

The Director, Strategy, Partnerships and Reform is the accountable director.

6. Related documents

Related documents, forms and templates
Adoption From Care Procedure
Request for Adoption or Long Term Guardianship (Specified Person) Assessment Pack
Guardian Request for Adoption Assessment Pack
Phase 1 assessment meeting form
Five Conditions Assessment Tool: Tool to complete Phase 2 assessment for Long Term Guardianship (Specified Person) and Adoption from Care
Phase 2 Assessment Report for Long-Term Guardianship (Specified Person) or Adoption from Care
Adoption from care: a booklet for parents

Adoption from care: a booklet for young people
Adoption from care: a booklet for guardians
Instrument of Consent of a Birth Parent
Instrument of Consent of a Young Person
Instrument of Consent of a Guardian
Adoption from care: adoption plan
Report to the Youth Court: Section 22 <i>Adoption Act 1988</i>
Adoption from Care: Financial agreement

7. Glossary

For the purpose of this policy, the following terms are defined as:

Term	Meaning
Child or young person	A person who is under the age of 18 years and who is going to be adopted.
Birth parents	The woman who gave birth to the child or young person and the male who acknowledges paternity of the child or young person or where paternity has been found by a court or adjudged to be the father under the <i>Family Relationships Act 1975</i> .
Birth family	Any member of the child or young person's biological family.
Carers	Persons who have an established relationship with the child or young person in their care and who have been granted guardianship of a child or young person until they attain 18 years under the <i>Children and Young People (Safety) Act 2017</i> or the <i>Children's Protection Act 1993</i> , or who are approved carers under s 72 of <i>Children and Young People (Safety) Act 2017</i> .
Adoptive parents	Persons who adopt the child or young person.
Adoptive family	Any member of the child or young person's new family after adoption.
Parties to the adoption	Persons involved in the adoption including the child or young person, the birth parents and the adoptive parents.

Section 4 of the Adoption Act provides the legal interpretation of these terms.



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