

Adoption from Care Procedure

1. Purpose

The purpose of this procedure is to ensure that adoption from care is considered as a permanency option for all non-Aboriginal or Torres Strait Islander children and young people in care where it is in their best interests. Adoption from care will not be considered for 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 procedure applies to all Department for Child Protection (DCP) staff responsible for determining permanency arrangements for non-Aboriginal children and young people 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* (CYPS Act)
- *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 procedure is informed by the objects and guiding principles of the Adoption Act, chapter 7A of the CYPS 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. Procedure requirements

4.1 Adoption as part of permanency planning

[Permanency planning](#) is a core element of DCP practice. Permanency planning should commence from the first intervention with a family and be tailored to the individual circumstances and developmental needs of each child or young person. Adoption will be considered as an available option, along with other options such as Long-term Guardianship (Specified Person) (LTGSP), for those children or young people who meet the criteria and who are placed under long-term orders. To understand the difference between adoption and LTGSP, please refer to Annex 1 of this procedure.

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 carers.

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). It is arguable (but untested before the Youth Court) that a single person caring for a child or young person in care constitutes special circumstances. If an appropriate case emerges for a single carer to adopt a child or young person in their care, the DCP case worker should bring it to the attention of the LTGSP Assessment Team to determine if DCP will support it.

Adoption will be considered for children and young people, where the 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 eligible carers have a child or young person in their care under the following orders:

- LTGSP 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. If a DCP case worker believes an exception to the established relationship requirement should be made, they should speak to their supervisor.

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 or 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 or young people 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.

To ensure cultural connections are developed, maintained and strengthened for the child or young person, DCP case workers must consult with DCP Multicultural Services, family and community members regarding the cultural needs of CALD children and young people to inform decision making in relation to placement-matching and maintaining cultural connections in the placement prior to adoption.

4.5 Request for assessment

Carers wishing to pursue a LTGSP or adoption pathway for a child or young person in their care must first complete the 'Request for Adoption or Long-term Guardianship (Specified Person) Assessment Pack'. Guardians wishing to pursue an adoption pathway, must complete the 'Guardian Request for Adoption Assessment Pack'.

The request for assessment pack includes the request for assessment form, adoption declaration (where relevant), health checklist and medical check forms. Carers or guardians must also submit a current copy of their Working with Children Check and National Police Check. Any costs associated with the medical checks, Working with Children Check or National Police Check are the responsibility of the carers or guardians.

Carers or guardians must email a signed copy of their Request for Assessment Pack to the LTGSP Assessment Team. If the carers provide their DCP case worker with the pack, the DCP case worker must then email it to the LTGSP Assessment Team.

4.6 Phase 1 assessment meeting

The purpose of the Phase 1 assessment meeting is to determine whether the carers are suitable to be assessed as either guardians or prospective adoptive parents, and whether they should progress to Phase 2 where a detailed and rigorous assessment of their suitability for LTGSP or adoption will take place.

A Phase 1 assessment meeting is only applicable to carers where the child or young person is under the guardianship of the Chief Executive. For guardians with a LTGSP order, a slightly different process will occur (see below for more information).

Once an application for LTGSP or adoption has been made to the LTGSP Assessment Team, a phase 1

assessment meeting will be convened by the DCP case worker. The meeting will include the DCP case worker, supervisor, practice leader, the carers and, where appropriate, the relevant child or young person. A principal Aboriginal consultant will also attend the meeting if the child or young person is Aboriginal and the carers are seeking LTGSP.

The minutes of the meeting must be recorded by the DCP case worker in C3MS. The DCP case worker must also complete the Phase 1 assessment meeting form and upload it to C3MS for the LTGSP Assessment Team to access when a referral for a Phase 2 assessment is made.

4.7 Referral for a Phase 2 assessment

Where the outcome of the Phase 1 assessment meeting is to progress to a Phase 2 assessment, the DCP case worker must submit a referral via C3MS to the LTGSP Assessment Team.

The LTGSP Assessment Team Supervisor will review the referral and supporting documentation. As part of their review, the LTGSP Assessment Team Supervisor will ensure that the referral is complete and all supporting documentation has been provided. If any tasks remain outstanding, the DCP case worker and meeting chair will be notified and advised to complete all tasks within four weeks before the referral can be progressed. When complete, the LTGSP Assessment Team Supervisor will allocate the referral to an LTGSP assessor.

For a copy of the relevant documents to upload to C3MS, please refer to the Document Check List in the Phase 1 assessment meeting form.

4.8 Phase 2 assessment

The LTGSP assessor will conduct an in-depth assessment into:

- whether adoption or LTGSP is in the best interest of the child or young person, and
- the suitability of the carers as either adoptive parents or guardians, and their capacity to care adequately for and meet the current and likely future needs of the relevant child or young person.

Where carers have requested on their DCP application form to be considered for an adoption pathway, the LTGSP assessor will assess for both adoption and LTGSP to determine which pathway would be in the best interests of the child or young person. Where the carers have only requested to be considered for LTGSP, the LTGSP assessor will only assess for the LTGSP pathway.

The LTGSP assessor will assess the application using the method determined most appropriate by the LTGSP Assessment Team Supervisor. If the carers are seeking an adoption pathway, the LTGSP assessor should use the Five Conditions Assessment Tool following confirmation from their supervisor. The assessments are to occur within six months of a referral being made for a Phase 2 assessment.

After completing the Phase 2 assessment, the Phase 2 assessment report should be completed. The LTGSP assessor will make an initial recommendation regarding whether adoption from care or LTGSP would be in the best interests of the child or young person. The LTGSP assessor should provide the carers or guardians with a copy of the assessment report for their comments and signature.

4.9 Phase 2 assessment for LTGSP guardians

As LTGSP guardians do not have an allocated DCP case worker or receive case management, the Phase 1 assessment meeting is not applicable to them. Instead, LTGSP guardians will complete the Guardian Request for Adoption Assessment Pack and email it to the LTGSP Assessment Team. The LTGSP Assessment Team will receive the application form and ensure all the relevant information and documents have been provided before commencing a Phase 2 assessment to make a recommendation on whether adoption is in the best interests of the child or young person.

The LTGSP Assessment Team will take into account the previous Phase 2 assessment conducted to obtain the LTGSP order and update the guardians' information using the Five Conditions Assessment Tool. The LTGSP assessor will either complete the Phase 2 assessment report or attach an addendum to the previous Phase 2 assessment report for the LTGSP order. The assessments are to occur within six months of receiving the Guardian Request for Adoption Assessment Pack.

During the phase 2 assessment, the LTGSP assessor must provide the LTGSP guardians with a copy of the booklet 'Adoption from care: a booklet for guardians' and explain the process of obtaining their consent to the adoption (see more information below on a guardian's consent).

After completing the Phase 2 assessment, the LTGSP assessor will make an initial recommendation on whether adoption from care would be in the best interests of the child or young person. The LTGSP assessor should provide the guardians with a copy of the assessment report for their comments and signature.

4.10 Views 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 regardless of their age and where they are developmentally capable of expressing their view.

To assist the child or young person in expressing their views and wishes, DCP case workers and the LTGSP Assessment Team must provide the child or young person with clear and age appropriate information about the nature of adoption and how it will impact their lives during both the Phase 1 Assessment meeting and the Phase 2 assessment.

The LTGSP assessor must provide young people over the age of twelve with a copy of the booklet 'Adoption from care: a booklet for young people' and explain the process of obtaining their consent to the adoption (see more information below on a young person's consent).

The child or young person's views about being adopted must be sought in a manner appropriate to the child or young person's age and developmental needs. DCP case workers and the LTGSP Assessment Team must each record the child or young person's views in C3MS. Additionally, DCP case workers and the LTGSP Assessment Team must each make a determination as to whether the relevant child or young person is developmentally capable of expressing their views and record this determination in C3MS.

Before making an adoption order for a child or young person over five years of age, the Youth Court will interview the child or young person to determine their views to the proposed adoption. The interview will be conducted by the relevant judge hearing the matter and cannot be conducted in the presence of any party to the adoption. The Youth Court will also ensure that a young person over the age of twelve has provided genuine written consent, and that they do not wish to revoke it (see more information below on a young person's consent).

4.11 Views of birth parents

The LTGSP assessor must seek the views of birth parents during the Phase 2 assessment, explaining the process for adoption from care, consent and the birth parents' rights. The LTGSP assessor must provide birth parents with a copy of the booklet 'Adoption from care: a booklet for parents' before their views are sought.

The consent of birth parents to an adoption from care is required under section 15 of the Adoption Act (see more information below on birth parents' consent). Birth parents' formal and written consent should normally only be sought following approval of the final recommendation to pursue adoption. However, if a parent is transient or there is limited opportunity to seek their consent it may be appropriate to do so prior to approval. The LTGSP assessor should speak to the LTGSP Assessment Team Supervisor if they believe this may be necessary.

4.12 Locating birth parents

If a birth parent's location is unknown, reasonable inquiries must be made to locate them by both the DCP case worker during the Phase 1 assessment meeting and again by the LTGSP assessor during the Phase 2 assessment. The DCP case worker and the LTGSP assessor should record their attempted methods to locate the birth parent in C3MS as a case note.

The following list of steps should be undertaken to try to locate the birth parents. Each successive step should only be taken if the previous step was not possible or unsuccessful:

- use any departmentally recorded addresses and telephone numbers to make contact with the birth parent
- visit the recorded address if there are no answers to letters or telephone calls
- approach family members for contact details of the birth parent
- search through telephone directories
- request contact information via DCP Interstate Liaison Team from:
 - Services Australia
 - Medicare
- conduct an electoral roll check
- retain a process server (**only to be used by the LTGSP Assessment Team** - as this will incur a financial cost, approval must be sought from the Executive Director of Out of Home Care).

4.13 Identifying the birth father

Should the birth father's identity be unclear, reasonable inquiries must be made to try to establish their identity. This includes asking the birth mother and extended maternal family if they are aware of or suspect someone may be the birth father. For carers seeking adoption, the DCP case worker will do this work during the Phase 1 assessment meeting. For LTGSP guardians seeking adoption, the LTGSP assessor will do this work.

Where a potential father or fathers are identified, reasonable inquiries must be made to locate them in accordance with the process outlined above under 'Locating birth parents'.

If a potential father or fathers are located, a DNA test must be sought where possible to determine parentage. For carers seeking adoption, the DCP case worker will be responsible for this work. For LTGSP guardians seeking adoption, the LTGSP assessor will be responsible for this work.

All actions taken by either the DCP case worker or LTGSP assessor must be recorded in C3MS.

4.14 Psychological assessment

Following a Phase 2 assessment, the LTGSP assessor can refer complex cases to Psychological Services for an additional assessment. The LTGSP assessor should speak to the LTGSP Assessment Team Supervisor if they believe a psychological assessment would be beneficial.

If Psychological Services do not recommend adoption for the child or young person, a meeting should be organised with the LTGSP assessor and supervisor to discuss and determine the appropriate pathway for the child or young person.

A report by Psychological Services may be provided to the Youth Court during the adoption proceedings as evidence that an adoption would be in the best interests of the child or young person and is the clearly preferable order (section 10 of the Adoption Act). The LTGSP assessor should consult with DCP Legal Services to determine if such a report is required.

4.15 Impact on other placements

During the Phase 2 assessment, the carers or guardians' capacity to continue to care for other children who are not already in their care (as either respite, short or long-term care) will be discussed with the LTGSP

assessor. The LTGSP assessor will then consult with Carer Approval and Review Unit (CARU) before a decision is made about whether or not a carer or guardian should be put 'on hold' for further placements. CARU will inform the carers or guardians as well as the LTGSP assessor of a decision to put them 'on hold'.

4.16 Final recommendation

If the initial recommendation following the Phase 2 assessment is for adoption, the LTGSP assessor should participate in a case consultation with the LTGSP Assessment Team Supervisor to discuss the recommendation. The LTGSP assessor, supervisor and manager should all sign the Phase 2 assessment report.

The following documents should then be provided to the Executive Director of Out of Home Care and the Chief Executive:

- Phase 2 assessment report
- report to the Youth Court: Section 22 *Adoption Act 1988* (section 22 report) (see below for more information)
- report by Psychological Services (only if deemed necessary, see above).

The Executive Director of Out of Home Care and, where required, the Chief Executive will approve the final recommendation that an adoption pathway for the child or young person should be pursued.

4.17 Consent of young people over twelve

Young people who are over the age of twelve, and developmentally capable of doing so, must provide their written consent to the adoption by completing the Instrument of Consent of a Young Person. The LTGSP Assessment Team will seek to obtain the consent of a young person in accordance with section 16 of the Adoption Act and regulation 6 of the Adoption Regulations.

The LTGSP Assessment Team must only obtain the young person's written consent **after** the Chief Executive approves the final recommendation that an adoption pathway should be pursued.

An allocated worker from the LTGSP Assessment Team must counsel a young person before they give their consent. The LTGSP Assessment Team must also provide the young person with a copy of the booklet 'Adoption from care: a booklet for young people' explaining the adoption process and what consent means. The young person's written consent must be witnessed but **cannot** be witnessed by the same person from the LTGSP Assessment Team who counselled them.

Twenty-five days must elapse between obtaining consent from a young person and the carers or guardians filing the adoption application in the Youth Court.

The young person can revoke their consent to the adoption at any time before the adoption order is made.

During the court proceedings, the Youth Court will interview the young person to determine their views to the proposed adoption. The Youth Court will ensure the young person has provided genuine written consent and that they do not wish to revoke it.

The Court may dispense with the consent of a young person to an adoption where it appears to the Court that they are intellectually incapable of giving consent (section 18(2) of the Adoption Act). The LTGSP assessor should speak to the LTGSP Assessment Team Supervisor if they believe a young person is not developmentally capable of giving consent.

4.18 Consent of birth parents

The LTGSP Assessment Team will seek to obtain the consent of the birth parents in accordance with section 15 of the Adoption Act and regulation 6 of the Adoption Regulations using the Instrument of Consent of a

Birth Parent template.

An allocated worker from the LTGSP Assessment Team must counsel each birth parent about the consequences of adoption and the process to revoke consent before they give their consent. The LTGSP Assessment Team must also provide each birth parent with a copy of the booklet 'Adoption from care: a booklet for parents'. Each birth parent's written consent must be witnessed but **cannot** be witnessed by the same person from the LTGSP Assessment Team who counselled them.

Where a birth parent's consent cannot be obtained, the Chief Executive will seek to have the Youth Court dispense with their consent pursuant to section 19 of the Adoption Act before an adoption application is filed by the carers or guardians.

4.19 Consent of LTGSP guardians

The LTGSP Assessment Team will obtain the consent of the guardians in accordance with section 15 of the Adoption Act and regulation 6 of the Adoption Regulations using the Instrument of Consent of Consent of a Guardian template.

An allocated worker from the LTGSP Assessment Team must counsel each guardian about the consequences of adoption and the process to revoke consent before they give their consent. The LTGSP Assessment Team must also provide each guardian with a copy of the booklet 'Adoption from care: a booklet for guardians'.

Each guardian's written consent must be witnessed but **cannot** be witnessed by the same person from the LTGSP Assessment Team who counselled them.

The guardians' consent should only be witnessed by the LTGSP Assessment Team just before the **final** adoption hearing. This will negate or minimise the effect of section 25 of the Adoption Act. The LTGSP Assessment Team should liaise with the Crown Solicitor's Office to determine the best time to witness the guardians' consent.

4.20 Planning – adoption plan between parties to an adoption

An adoption plan will outline the provision of information and contact or any other matters related to the welfare of the child or young person following their adoption (section 26A of the Adoption Act).

The LTGSP assessor should facilitate an adoption plan between the birth parents and prospective adoptive parents using the adoption plan template. The child or young person may be a formal party to the plan when it is made or they can be formally joined to it later, depending on their age and capacity. The adoption plan will outline the contact all parties to the adoption will have with one another after the adoption order is granted. For example, this may include how often and in what circumstances the birth parents or other birth relatives have contact with the child or young person. The adoption plan should be uploaded to C3MS by the LTGSP assessor.

The ability of the carers to maintain contact with the birth family, if it is in the child or young person's best interests, should be considered throughout the assessment process. Where contact with the birth family cannot be facilitated by the carers (due to special circumstances of an actual, not perceived, risk from the birth family to either the carers or the child or young person), alternative arrangements must be explored by the DCP case worker and the LTGSP assessor, and documented in the adoption plan. Challenges associated with contact arrangements with birth families, including where contact is not in the best interests of the child or young person, should not prevent DCP from undertaking a full adoption assessment or supporting an adoption application to the Youth Court.

The completed adoption plan may be attached to the Section 22 report and provided to the Youth Court to demonstrate the prospective adoptive parents' willingness to support a child or young person's connection to the birth family, community, culture and religion. Where birth parents cannot or will not agree to an adoption plan, the LTGSP assessor should still create an adoption plan with the prospective adoptive parents

and attach this to the Section 22 report.

If an adoption order is made by the court, the adoption plan must then be placed on a register by Adoption Services. Adoption Services will be responsible for creating and maintaining a register of adoption from care plans. The adoption plan can be changed from time to time by agreement between the adoptive parents and the birth parents and, where required, facilitated by Adoption Services (section 26A(1) of the Adoption Act).

Once an adoption is granted, the adoptive parents will then be responsible for supporting and maintaining contact with the birth family as specified in the adoption plan.

Adoption plans are not enforceable by a court.

4.21 Planning – National Disability Insurance Scheme (NDIS) access

Children and young people adopted from care with a permanent or significant disability will be eligible for NDIS funded supports. Before the adoption is completed, the child or young person's DCP case worker will be responsible for ensuring NDIS arrangements are in place prior to the adoption order being granted.

In the event that the child or young person's disability emerges after the adoption order is made, the adoptive parents are responsible for making NDIS arrangements. DCP will only assist adoptive parents with NDIS access after an adoption in exceptional circumstances and as a measure of last resort.

4.22 Planning – victims of crime compensation or other legal claims

The child or young person's eligibility to claim victims of crime compensation should be considered by the DCP case worker during the Phase 1 assessment meeting and noted in C3MS. Where a legal claim has been identified but not finalised, the adoptive parents will assume responsibility for pursuing the claim on behalf of the child or young person at an appropriate time.

4.23 Section 22 report to the Youth Court

The Section 22 report details the suitability of the prospective adoptive parents and their capacity to adequately care for the child or young person. The report is prepared by the LTGSP assessor and is based on the information obtained during the Phase 2 assessment. The LTGSP assessor must complete the Section 22 report template and provide a copy, along with the Phase 2 assessment report and report by Psychological Services (if necessary), to the Executive Director of Out of Home Care and the Chief Executive for approval of the final recommendation.

Once the carers or guardians make an adoption application in the Youth Court, the Section 22 report with the adoption plan attached must be submitted Youth Court (section 22 of the Adoption Act).

4.24 Youth Court process and legal assistance

The LTGSP Assessment Team will support the child or young person and carers or guardians through the Youth Court process.

DCP will reimburse the carers or guardians for the Youth Court's filing fee for an adoption application regardless of the outcome of the application. Reasonable legal costs associated with the adoption proceedings will be met by DCP for the child or young person, and the carers or guardians.

Assistance with legal fees will only be provided for carers or guardians through the Youth Court Adoption Representation Program for Eligible Carers in Adoption from Care Proceedings in accordance with the Memorandum of Understanding between DCP and the Legal Services Commission. The LTGSP Assessment Team will provide the carers or guardians with a letter referring them to the Legal Services Commission. Carers or guardians will only be referred if and when DCP approves the final recommendation for adoption and consents have either been obtained or dispensed with.

All children and young people who are party to adoption from care proceedings will be represented by their own lawyer (known as the child representative) through the Youth Court Adoption Representation Program for Young People in Adoption from Care Proceedings in accordance with the Memorandum of Understanding between DCP and the Legal Services Commission.

Birth parents can apply to the Legal Services Commission for legal aid with the normal guidelines applying. If legal aid is granted, a private lawyer will be provided.

4.25 Fees and charges

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

4.26 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 financial support will be considered by the Carer Payments team 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. If the child or young person returns to the adoptive parents care, Adoption Services will work with CARU to recommence the payments.

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.

4.27 Additional financial support

Additional financial support for children or young people adopted from care outside of the ongoing carer payments or annual payments are limited to payments for therapeutic services connected to the trauma, harm or severe adversity experienced by the child or young person before being taken into care.

Any other additional financial support including, but not limited to, private school fees, transport, and activities etc., will not be provided. However, where a child or young person's private school fees are being

paid for before the adoption order is in place, DCP will continue to pay them.

During the Phase 1 or Phase 2 assessment process, the arrangement to pay for private school fees and/or therapeutic supports must be detailed in a financial agreement signed by the carers or guardians as well as the manager and regional director of the relevant office. Following an adoption order, existing agreements for DCP to pay private schools fees and/or therapeutic interventions will be funded through the [Exceptional Resource Funding Procedure](#) from the pool of funding allocated to each office.

If DCP has funded the private primary school fees for a child or young person adopted from care, the adoptive parents will need to liaise with DCP regarding their plans and arrangements for high school.

Adoptive parents are not eligible for the education grant and the activity grant. Adoptive parents will also not be eligible for any further carer payment initiatives by DCP once the young person turns 18 years old, including the Stability in Family-Based Care program and Over 18 Education Initiative. However, a child or young person adopted from care may be entitled to federal government assistance in the form of a Health Care Card, Youth Allowance and Transition to Independent Living Allowance (TILA). It is the responsibility of the adoptive parents to access these benefits.

4.28 Annual review of financial support

An annual review of the financial support received by adoptive parents will take place in the August of each year once 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).

Adoptive parents will receive an annual review letter from DCP facilitated by Adoption Services. Adoptive parents will need to confirm in writing within 21 days of receipt of the annual review letter:

- the child or young person remains in their primary care residing in South Australia
- where they are seeking ongoing carer payments, evidence of their eligibility for Family Tax Benefit A in the previous financial year (providing Centrelink or tax return documents) where they are seeking ongoing carer payments
- their agreement to inform DCP if the child or young person leaves their care for longer than 21 days to reside elsewhere.

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.

If adoptive parents fail to respond to the annual review within 21 days, ongoing carer payments or the annual payment will cease.

At the beginning of each calendar year, adoptive parents will also need to apply to renew any existing arrangement for DCP to pay private school fees and/or therapeutic services. This will be a different application to the annual review letter and will be facilitated by Adoption Services. The application will need to be signed off by the Supervisor of Adoption Services, Executive Director of Out of Home Care as well as the manager and regional director of the relevant office.

4.29 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 Adoption Services.

If the child or young person is no longer living with the adoptive parents, Adoption Services should ascertain where they are and why they left the adoptive parents home and, if necessary, escalate the matter to the Chief Executive or delegate for consultation. Re-assessment of the adoptive parents' base rate and special needs loading payments should occur, initiated by Adoption Services in partnership with the Carer Payment team.

4.30 Case work following an adoption order

Children or young people adopted from care will not receive case management or other specialist support provided by DCP. The case will be assigned to Adoption Services who will be responsible for all the post-adoption work, including:

- the annual review of any carer payments, special need loading, annual payment and/or additional financial support for private school fees and/or therapeutic services
- providing signed consent notices for an integrated birth certificate to the Registrar of Births, Deaths and Marriages
- maintaining the register of adoption plans
- facilitating any request to vary an adoption plan
- notification of the death of an adopted child or young person, or their birth parents
- all other post-adoption queries.

Kinship care and foster care support workers will not provide support to carers that become adoptive parents once the adoption order has been granted. However, support will continue to be provided to other children and young people who are placed with the carers who are not the subject of an adoption order, but are under the Guardianship or Custody of the Chief Executive.

4.31 If the adoption does not proceed

DCP case workers will provide ongoing case support if the adoption does not proceed, including managing any risk of negative impact on the child or young person, carers or guardians and placement as a result of the outcome. If the adoption does not proceed for a child or young person under a LTGSP order, the LTGSP assessor will refer the matter back to the relevant office to provide follow up case support to manage any risk of negative impact on the child or young person, carers or guardians and placement as a result of the outcome.

4.32 Change of name

During or after the making of an adoption order, the Youth Court can also make an order declaring the name by which the child or young person is to be known (section 23 of the Adoption Act). Before making such an order, the Court should take into account any wishes expressed by the child or young person on the proposed name change. If the young person is twelve years or over, the Court will not change their name unless the young person gives their consent where they are intellectually capable of doing so.

4.33 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 sign an agreement called a consent notice (section 41(4) of the Adoption Act). For a copy of the consent notice, please refer to the last page of the adoption plan template.

Where appropriate and prior to an adoption hearing, the LTGSP assessor will organise the signing of the consent notice. This can take place at the same time as facilitating the adoption plan.

Once an adoption order is made, Adoption Services will provide the consent notice to the Registrar of Births, Deaths and Marriages in accordance with the Memorandum of Administrative Arrangement so that an integrated birth certificate can be obtained before the child or young person turns 18.

4.34 Post adoption services

Adoption Services will refer the child or young person and adoptive parents to Relationships Australia for post-adoption support.

Children or young people adopted from care will continue to receive education and health services through *Investing in their future*, including therapeutic supports. Continuation of such services are critical to addressing the impacts of the harm that these children and young people have experienced.

4.35 Future child protection matters

Any future allegation of child 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.

If Adoption Services are notified of any child protection concerns, they must allocate it back to the relevant office to investigate.

4.36 Death of an adopted child or young person

The adoptive parents will make decisions regarding the funeral, burial rights and donation of organs.

If Adoption Services is made aware of the death of a child or young person, they will notify the birth parents and each person who would have been a whole or half sibling of the adopted person if the adoption order had not been made (section 40A(1) of the Adoption Act). Adoption Services will also inform the birth parents that they can apply to the Registrar of Births, Deaths and Marriages to request that their names be added to the Death Register and death certificate in addition to the adoptive parents' names.

Adoption Services should notify the Chief Executive or the delegate of the death of a child or young person adopted from care and, if known, provide information as to the cause of death.

4.37 Death of birth parent(s)

Where Adoption Services is made aware that a birth parent of an adopted person has died, reasonable steps will be made to inform the adopted person, if it is considered appropriate (section 40A(2) of the Adoption Act).

4.38 Death of adoptive parents

If one adoptive parent dies, the other parent automatically retains parental responsibility of the adopted child or young person - as would be the case for any biological child.

Carers or guardians should be encouraged during the Phase 2 assessment to nominate in their Will a

guardian for the adopted child or young person, known as a testamentary guardian, once the adoption order is made. The testamentary guardian can assume the parental responsibilities in the event both adoptive parents die while the child or young person is still a minor. Under the *Family Law Act 1975* (Cth), the Family Court can receive an application for a parenting order from any person concerned with the care, welfare or development of the child. Appointing a guardian in the adoptive parents Will may help avoid disputes or, if necessary, inform the Family Court of the adoptive parents' intentions and wishes.

4.39 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 Youth 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, Adoption Services 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. The Chief Executive will delegate the power to conduct a discharge investigation and prepare a report to certain staff in Adoption Services.

In all cases, the Chief Executive's delegate in Adoption Services 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 document will be updated through reviews every three years.

6. Related documents

Related documents, forms and templates
Adoption from Care Policy
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

Term	Meaning
Adoptive family	Any member of the child or young person's new family after adoption.
Adoptive parents	Persons who adopt the child or young person.
Birth family	Any member of the child or young person's biological family.
Birth parents	The woman who gave birth to the child or young person and the man who (i) acknowledges paternity of the child or young person or (ii) who has been found to be the father by a court or who has been adjudged to be the father under the <i>Family Relationships Act 1975</i> .
Carer	An approved carer in whose care a child or young person has been placed while under the guardianship of the Chief Executive until they attain 18 years of age.
Child or young person	A person who is under the age of 18 years and who is going to be adopted from care.
DCP	Department for Child Protection.
Guardian	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 CYPs Act or the <i>Children's Protection Act 1993</i> .
LTGSP Assessment Team	Long-Term Guardianship (Specified Person) team.

Document control

Reference No./ File No.			
Document Owner		Lead Writer (name, position)	
Directorate/Unit: Strategy, Partnerships and Reform		Claire Benn, Senior Project Officer, Strategy, Partnerships and Reform	
Accountable Director: Karen McAuley			
Commencement date	4 March 2022	Review date	4 March 2025
Risk rating	Consequence Rating	Likelihood	Risk Rating
Risk Assessment Matrix	Moderate	Unlikely	Moderate

REVISION RECORD		
Approval Date	Version	Revision description
4 March 2022	V1.0	Final

Annex 1: Difference between a Long-Term Guardianship to the Chief Executive order, Long-Term Guardianship (Specified Person) order and Adoption from Care

Adoption is a permanent legal arrangement. It provides children and young people with lifelong relationships in a safe and stable home as well as a sense of permanently belonging to a family and community. Adoption from care can help reinforce a child or young person's sense of belonging and security, reassuring them that the love and support of their carers or guardians will continue beyond their 18th birthday.

Where a child or young person is under a Long-term Guardianship to the Chief Executive until 18 order (LTG-CE 18) or a Long-Term Guardianship (Specified Person) (LTGSP) order, all the guardianship rights are held by the Chief Executive or LTGSP guardian respectively. However, neither the Chief Executive or the LTGSP guardian are the child or young person's legal parent. The child or young person's birth parents remain their legal parents and retain limited decision making rights. For example, birth parents are able to make decisions regarding burial and funeral arrangements as well as providing permission for organ donation. This would change if an adoption order is in place.

If the Court makes an adoption order, this means that all the rights and responsibilities of the parents who gave birth to the child or young person are legally removed and transferred to the adoptive parents. The child or young person becomes the legal child of the adoptive parents and the law views them as if they were born into the adoptive family. The adopted child or young person then has the same legal rights as any biological child of the adoptive family. The adoption order also removes all legal relationships with the birth family—for example, birth siblings will no longer be deemed legal siblings of the adopted child. However, this does not stop an adopted child or young person from having a relationship with their birth family.

If they are adopted, the child or young person will be provided with a new birth certificate. This birth certificate will make no reference to their birth parents' names and will instead record the adoptive parents' names as the legal parents. Where appropriate, the child or young person may also obtain an integrated birth certificate which will detail their new name and the adoptive parents as the legal parents as well as showing their original birth name and birth parents.

DIFFERENCE BETWEEN LTG-CE, LTGSP & ADOPTION FROM CARE

	LTG-CE 18	LTGSP	Adoption from Care
Duration of orders	Until child or young person is 18 years old	Until child or young person is 18 years old	Permanent (unless a discharge is granted)
Includes Aboriginal or Torres Strait Islander children	Yes	Yes	No
Removal of the legal rights of the birth family	No	No	Yes
Legal parents	Birth parents	Birth parents	Adoptive parents
New birth certificate	No	No	Yes
Name change	Yes – DCP conducts assessment and consults with child or young person, and birth parents. Process can be involved and take several months	Yes – DCP conducts assessment and consults with child or young person, and birth parents. Process can be involved and take several months	Yes – the Youth Court can make an order declaring the name by which the child or young person is to be known at the same time as the adoption order is made or by a subsequent order. The adoptive parents could also use the new birth certificate and adoption order to request a change of name in a simple and direct process that does not involve the birth parents or DCP
Ongoing case work by DCP	Yes	No	No

	LTG-CE 18	LTGSP	Adoption from Care
Birth parents retain some legal rights (see decision making responsibility below)	Yes	Yes	No
Decision making responsibility	<p>DCP – complex or sensitive decisions including significant school activities, serious medical treatment, interstate overnight and overseas travel. In some cases, DCP must consult with birth parents (see Who can say OK?)</p> <p>Carer(s) – delegated powers for day-to-day decisions including decision on daily routines, day-to-day education, routine medical and dental treatment (see Who can say OK?)</p> <p>Birth parents – decisions about funeral and burial arrangements, and organ transplantation (see Who can say OK?)</p>	<p>LTGSP guardian(s): almost all decisions. Do not need to consult with the birth parents or DCP</p> <p>Birth parents: decisions about funeral and burial arrangements, and organ transplantation</p>	All decisions made by adoptive parents

	LTG-CE 18	LTGSP	Adoption from Care
Responsibility for contact with birth family	DCP	LTGSP guardian(s). In extenuating circumstances, DCP will manage contact with birth parents if there is deemed to be an actual (not perceived) risk	Adoptive parents in accordance with the Adoption Plan. DCP may also act as intermediate for non-physical contact i.e. receiving and sending on cards, photos etc. DCP to maintain register of Adoption Plans (s26A(6) <i>Adoption Act 1988</i>)
Carer support payments	Yes	Yes	Yes – subject to Family Tax Benefit A eligibility. If not eligible for Family Tax Benefit A, adoptive parents may receive a once off transition payment of \$3,000 and an annual payment of \$1,500
Special needs loading	Yes	Yes	Yes
Additional financial supports (ie therapeutic support, private school fees, extra curriculum activities etc)	Yes – if agreed to by DCP	Yes – if agreed to by DCP prior to the LTGSP order being made and dependent upon DCP's acceptance of an annual funding application	Partial – 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
Availability of carer payments post 18 years old	Yes – access to the Stability in Family-Based Care Program and Over 18 Education Initiative	Partial – access only to the Stability in Family-Based Care Program	No

	LTG-CE 18	LTGSP	Adoption from Care
Availability of non-financial support services post 18 years old	Yes – post care support services through Relationship Australia	Yes – post care support services through Relationship Australia	Yes – post care support services and adoption support services through Relationship Australia
Obtain a passport	Yes – done by DCP. Requires consent of DCP and birth parents (exceptions apply). Can take a long time to obtain	Yes – done by LTGSP guardians. Requires consent from birth parents (exceptions apply). Can take a long time to obtain	Yes – done by adoptive parents using the new birth certificate and adoption order. Consent from DCP and birth parents not required. Normal timeframes apply
Access to <i>Investing in their future</i>	Yes	Yes	Partial – only education and health programs, including therapeutic support
Health care card	Yes	Yes	Will depend on the income of the adoptive parents and their eligibility for the health care card
Medicare card	Yes – own Medicare card and number	Yes – own Medicare card and number	Yes – own Medicare card and number. Adoptive parents could then apply to have child or young person placed on their Medicare card using new birth certificate and adoption order
Restricted access to my Health Record	Yes – managed by DCP	No	No



	LTG-CE 18	LTGSP	Adoption from Care
Right of inheritance	From birth parents (subject to any Will)	From birth parents (subject to any Will)	From adoptive parents only (subject to any Will). Following severing of the legal relationship with birth parents, the child or young person will have no automatic right of inheritance from birth parents unless specifically named as a beneficiary in the birth parents' Will
Notification of the death of child or young person to birth parents	DCP	DCP	DCP
Notification of the death of birth parents to child or young person	DCP	DCP	DCP
Relevant legislation	<i>Children and Young People (Safety) Act 2017 (SA)</i>	<i>Children and Young People (Safety) Act 2017 (SA)</i>	<i>Adoption Act 1988 (SA)</i>