

Adoption Services: Processing local and intercountry adoptions Procedure

1. Purpose

This procedure outlines the Department for Child Protection (DCP) processes undertaken by the Adoption Services team for local and intercountry adoptions.

2. Scope

This procedure applies to DCP staff managing the process for local and intercountry adoptions. In DCP, these activities are undertaken by the Adoption Services team within the Out of Home Care Directorate.

This procedure does not include adoption from care. Staff should refer to the [Adoption from Care Procedure](#) for further information.

Please note that in this document, the term Aboriginal, refers to all people who identify as Aboriginal, Torres Strait Islander or both Aboriginal and Torres Strait Islander. This term is used as the First Nations Peoples of South Australia are predominantly Aboriginal peoples and it is their preferred term. We acknowledge and respect that it is preferable to identify Aboriginal peoples, where possible, by their specific Language group or Nation.

3. Authority

3.1 Legislative context

Whilst these documents listed below are not specified in the procedure, they underpin the functions and operations of DCP's Adoption Services team:

- [Adoption Act 1988](#)
- [Adoption \(General\) Regulations 2018](#)
- [Children and Young People \(Safety\) Act 2017](#)
- [Children and Young People \(Safety\) Regulations 2017](#)
- [Commonwealth-State Agreement for the Continued Operation of Australia's Intercountry Adoption Program](#)
- [Family Law Act 1975](#)
- [Family Law \(Hague Convention on Intercountry Adoption\) Regulations 1998](#)
- [Freedom of Information Act 1991](#)
- [Immigration \(Guardianship of Children\) Act 1946](#)
- [National Practice Agreement Intercountry known non-relative child adoption](#)
- [National Practice Agreement Intercountry relative child adoption](#)
- [National Practice Agreement Intercountry subsequent sibling adoption](#)
- [National Permanency Guiding Principles](#)

3.2 Whole of Government requirements

- [Code of Ethics for the South Australian Public Sector](#)
- [Safe and Well: Supporting families, protecting children and young people](#)

3.3 DCP requirements

- [South Australia's strategy for children and young people in care 2020-2023](#)

If parties to an adoption are from culturally and linguistically diverse backgrounds, Adoption Services workers will consult with and seek advice from DCP Multicultural Services, and be familiar with the [Culturally and Linguistically Diverse Child Placement Policy](#).

If the potential adoption relates to an Aboriginal person, Adoption Services workers will consult with and seek advice from a Principal Aboriginal Consultant (PAC) and be aware of the [Aboriginal and Torres Strait Islander Child Placement Principle \(ACPP\)](#) and the [Family Led Decision Making for Aboriginal families Framework](#).

The department has a number of Memoranda of Administrative Arrangement (MoAA) in place between DCP and:

- Births Death and Marriages
- the Legal Services Commission. The MoAA covers: Children under the age of 18 years who are the subject of adoption proceedings under the *Adoption Act 1988*:
 - eligible carers who are the applicant for an adoption order in adoption from care proceedings under the *Adoption Act 1988*;
 - children and young people who are under the guardianship of the Chief Executive who apply to SACAT for a review of a reviewable decision pursuant to section 158 of the *Children and Young People (Safety) Act 2017*.

3.4 Principles

The safety and wellbeing of children and young people is the paramount consideration in the work of the Adoption Services team. The Objects and guiding principles of the *Adoption Act 1988* are:

1. The objects of this Act are:
 - a) to emphasise that the best interests, welfare and rights of the child concerned, both in childhood and in later life, must be the paramount consideration in adoption law and practice; and
 - b) to promote the principle that adoption is to be regarded as a service for the child concerned; and
 - c) to ensure that adoption law and practice assist a child to know and have access to his or her birth family and cultural heritage; and
 - d) to recognise the adoption of children from other jurisdictions and to endeavour to ensure that equivalent safeguards and standards to those that apply to children adopted in this State apply to children adopted from overseas; and
 - e) to endeavour to ensure that adoption law and practice complies with Australia's obligations under treaties and other international agreements; and
 - f) to encourage openness in adoption; and
 - g) to allow access to certain information relating to adoptions.
2. The Court, the Minister, the Chief Executive and other persons and bodies involved in the administration of the *Adoptions Act 1988* are to be guided by the following principles in the exercise of their powers or functions:

- a. the best interests, welfare and rights of the child concerned, both in childhood and in later life, must be the paramount consideration;
 - b. adoption is to be regarded as a service for the child concerned;
 - c. adoption practices should reflect current community attitudes, best practice and values with respect to adoption;
 - d. no adult has a right to adopt a child;
 - e. if a child is able to form views on a matter concerning the child's adoption, the child must be given an opportunity to express those views freely and those views are to be given due weight in accordance with the developmental capacity of the child and the circumstances;
 - f. the child's given name or names, identity, language and cultural and religious ties should, as far as possible, be identified and preserved.
3. In addition to the principles set out in subsection (2), a person or body exercising a function or power under this Act in relation to an Aboriginal or Torres Strait Islander child must observe [the Aboriginal and Torres Strait Islander Child Placement Principle](#).

For intercountry adoptions the [Hague Convention](#) aims to ensure that intercountry adoption only occurs when in the best interests of the child and their fundamental rights.

4. Procedure requirements

The Adoption Services team are required to ensure their practices are compliant with the *Adoption Act 1988*, the *Adoption (General) Regulations 2018* and are aligned to the DCP [Local Adoption Policy](#) and the [Intercountry Adoption Policy](#).

DCP is child-focussed in its approach with all parties to an adoption including adoptees, the birth parents who are considering adoption, and persons who wish to adopt.

Any decision in relation to adoption of an Aboriginal child or young person must take into account the likely long-term outcomes for an Aboriginal child or young person's cultural connections, identity and social and emotional wellbeing. It is important that those who may be affected, particularly the child or young person, their birth parents and key family and community members, are able to participate in significant decisions as early as possible in the decision making process. For further support when working with Aboriginal children, young people and families, refer to the [Aboriginal and Torres Strait Islander Child Placement Principle \(ACPP\) Practice Paper](#) and the [Family Led Decision Making for Aboriginal families Framework](#).

4.1 Local adoption

The Adoption Services team can be contacted by telephone (1800 512 355) or [email](#) either prior to, or after, the birth of a baby or in regard to an older child, when the parents are considering adoption. On occasions the hospital and/or DCP office may also contact the Adoption Services team to advise that birth parents wish to consider adoption. If a child is abandoned, or there are other child protection concerns, the matter will be managed through a child protection pathway and would not be referred to the Adoption Services team.

The Adoptions Services worker will consult with the OOHC Principal Aboriginal Consultant (PAC) and OOHC practice leader as required.

4.1.1 Provide counselling, information and supports to birth parents considering relinquishing their child

Part 3 of the *Adoption (General) Regulations 2018*, outlines the requirements for counselling and consent to adoption. The Adoption Services team are required to ensure informed consent is being made by providing access to information about the implications and consequences of adoption and to make the person aware of counselling and support services. In the case of the adoption of an Aboriginal child, the Adoptions Services worker is required to make sure the person is aware of counselling and information provided by Aboriginal or Torres Strait Islander organisations and help the person to obtain counselling and information if the person wishes to do so.

Following receipt of a referral, the Adoption Services team will:

- meet with the parents who wish to consider adoption and provide them with a copy of the [Considering Adoption booklet](#)
- provide counselling and information to the birth parents for them to consider as part of the adoption process. This includes assisting the birth parents to fully explore other options to adoption, and to access services and supports as needed in the decision making process
- explore with the parents people within their extended family who can care for the child (in a private arrangement) during this decision making process
- make referrals to relevant support services
- maintain records of counselling, information provided and any referrals for support on the adoption services drive.

During this period of counselling and decision making for the parents, the Adoption Services team needs to balance the need to provide birth parents with the time to make an informed decision, with the needs of the child.

If a child needs to be placed in foster care during the decision making process the Adoption Services team will:

- confirm no other placement options are available and the parents are not able/willing to provide care for the child at that point in time
- request the parents sign an Adoption [Voluntary Custody Agreement](#) (VCA)
- complete a placement request referral and submit the referral to DCP's Placement Services
- work collaboratively with service providers to support the carer/s to meet the needs of the child.

4.1.2 Obtaining consent

Section 15 of the *Adoption Act 1988* provides that an adoption order will not be made unless both birth parents consent to the adoption.

If following the provision of information, counselling and support, the birth parents decide to progress to adoption, the Adoption Services team will identify an independent witness (not the person who provided information and counselling) within the Adoption Services team to witness the [Birth parents' consent Form](#). The witness must be satisfied that the birth parents giving consent understand the nature of the consent.

The person witnessing the consent must, as soon as practicable after consent is recorded, forward a copy of the signed consent to the Chief Executive and return the original signed consent to the person providing consent.

Birth parents have 25 calendar days from the date of providing consent to withdraw their consent, however this may be extended by 14 calendar days if parents require additional time to consider their decision.

The views of the child will be sought by the Adoption Services worker and captured in the [Child's Consent to be adopted Form](#). The Adoption Services worker is required to ascertain if the child is able to form and express a view about being adopted.

For local adoptions, children with disability or developmental delay requiring support to express their views, staff should contact the disability consultant who supports the regional office the child or young person is assigned to. The consultant will be able to provide advice based on cognitive, developmental or speech pathology assessment reports regarding the developmental level of the language that should be used when seeking the view of the child or young person. In cases where there are complex communication needs the disability consultant may be able to assist the case worker with seeking specialist advice from a clinician who could compile an individualised visual resource/story/script for the purpose of conversation.

Prior to completing their consent the child or young person will be provided with information about the implications and consequences of adoption. They will then be provided with the opportunity to provide their consent to being adopted and to provide information about their preferences in regard to changes to their birth certificate and changes to their legal name. The person who witnesses the child or young person's consent will be required to ensure the young person is informed and understands what they are consenting to, before witnessing the young person's consent.

4.1.3 Application to dispense with the consent of a parent

In the event the identity of the birth father is not provided, the Adoption Services worker will explain to the mother that it is in the best interests, welfare and rights of the child to know the identity of their father. Every possible effort must be made to locate the father as soon as possible. The Adoption Services worker may request that the putative father undergo a paternity test at Adoption Services expense.

If during the counselling process a parent cannot be found or identified or one of the other criteria in section 18 of the *Adoption Act 1988* applies, an application to dispense with the consent of the parent must be made as soon as possible. The Adoption Services worker will complete an [Application to Dispense with or Recognise the Validity of Consent \(form A7\)](#), an [affidavit](#) (form A5) detailing the reasons for the application and a letter of instruction. The supervisor of Adoption Services is delegated under section 19 of the *Adoption Act 1988* to sign and progress the documents to Crown with a letter of instruction.

4.1.4 Provide counselling, information and supports to Aboriginal parents considering adoption of Aboriginal child

Section 3(3) of the *Adoption Act 1988* provides that a person or body exercising a power or function under the *Adoption Act* in relation to an Aboriginal child or young person must observe the ACPP. This includes DCP staff. The Adoption Services worker must consider how the Aboriginal child or young person's identity, language and cultural bonds can be maintained. The ACPP is set out in regulation 4 of the *Adoption (General) Regulations 2018*. Active efforts must be taken by Adoption Services workers to apply the ACPP in their practice with Aboriginal children and their families. The Adoption Services worker should refer to DCP's Aboriginal and Torres Strait Islander Child Placement Principle Practice Paper and the Manual of Practice, [Consult with a recognised organisation for Aboriginal Children and young people](#) for further guidance.

The Adoption Services team is required to understand the role Aboriginal Community Controlled Organisations (ACCOs) and communities have in the decision making processes about the safety and wellbeing of Aboriginal children.

Active efforts are required to undertake culturally safe, counselling supports and information of an Aboriginal child and the family's needs and circumstances, with a focus on preserving families wherever possible. The Adoption Services team working with birth families considering relinquishing an Aboriginal child must ensure:

- families are aware of the availability of further specialised counselling from Aboriginal organisations
- referrals are made to appropriate services to support the parent in obtaining counselling and support
- work with extended family and community members to enable Aboriginal children to be supported to maintain their connection to their family, community and culture.

Active efforts will be made to:

- identify potential family and extended family members who could care for the child, or
- identify a member of the child's community who has a relationship of responsibility for the child, or
- identify a member of the child's community, or
- when all other options have been exhausted, identify a person of Aboriginal cultural background
- ensure that time and opportunity is afforded to all interested parties to identify if care can be provided without the need to progress to adoption.

4.1.5 Applications to adopt an Aboriginal child, young person or adult

The Adoption Services team's role in receiving applications for the adoption of an Aboriginal child, young person or adult is to:

- undertake consultation with a PAC and other relevant DCP staff. This option must also be thoroughly discussed with the child, the child's parents, relatives, carers and other significant people in the child, young person or adult's life
- manage the processes associated with the consent or dispensation of consent of those persons who are required to consent to the adoption (parents, guardians, person to be adopted aged 12 years and over). Please refer to DCP's [Procedure for consulting with a recognised organisation](#)
- consult with Aboriginal Family Support Services (AFSS) as the recognised Aboriginal and Torres organisation where the person to be adopted is Aboriginal as required by section 11(1a) of the *Adoption Act 1988*.
- complete a Youth Court Report and provide the report to the Youth Court on the suitability of the applicants to adopt the Aboriginal child, young person or adult.

Adoption Services must consult with a recognised Aboriginal organisation if an application is made to adopt an Aboriginal young person, and act to ensure the best interest of the Aboriginal young person in regard to their identity and connection to culture, extended family, community and Country.

4.2 Information sessions for Prospective Adoptive Parents (PAP)

The Adoption Services team facilitate information sessions for applicants interested in adoption. Information sessions are held as required, having regard to the number of people on the adoption register and the overall need of offering these information sessions.

4.3 Expression of Interest (EOI)

The Adoption Services team accepts an EOI from applicants who have attended an information session and want to explore adoption. Adoption fees are sought from the EOI stage. Adoption fees prescribed by a fee notice issued pursuant to section 4 of the *Legislation (Fees) Act 2019* and published in the Gazette. Fee notices are issued annually.

4.3.1 Local and Intercountry adoption

Applicants are required to complete the following forms:

- [Expression of interest \(EOI\) to adopt a child](#) through either local, intercountry adoption or both
- [Statement of understanding](#)
- [Health statement](#) (one form per applicant)
- [Medical report](#) on prospective adoptive parent (one form per applicant to be completed by a medical practitioner)
- [Consent to release information](#).

Applicants expressing an interest in adoption are required to complete screening checks including:

- Working with Children Check (WWCC) including interstate and overseas where required
- WWCC for applicants and household members
- national police check (SAPOL).

Once the applicant has completed these forms and screening checks, they are to be sent to the Adoption Services team via post to: Adoption Services Team, GPO Box 1072 ADELAIDE SA 5001, or via email to adoptions@sa.gov.au.

The Adoption Services team will:

- undertake a child protection history check of the applicants
- review and assess the information provided to determine if the applicant is eligible to proceed to an initial interview
- inform the applicant if they have been successful and or meet with the applicant as required to provide information about the factors impacting on their eligibility.

4.3.2 Initial interview

The Adoption Services worker will organise an interview with the applicant when the EOI and associated forms have been received.

The interview process enables the Adoption Services worker to establish an applicant's eligibility to apply for registration on the Prospective Adoptive Parents (PAP) Register as set out in regulation 9 of the *Adoption (General) Regulations 2018* and:

- ensure applicants are aware of the complexities of adoption
- make applicants aware of adoption legislation and its requirements
- provide information about the education, assessment and registration process.

The Adoption Services worker will:

- explain the minimum requirements outlined in regulation 9 of the *Adoption (General) Regulations 2018*
- in the case of Intercountry adoption, identify the applicants' preferences for a country and provide them with that country's specific adoption criteria

- gather information and discuss any issues impacting on eligibility
- provide information to the PAP about foster care and their option to make an application to become an approved foster carer.

After the initial interview with the applicant, the Adoption Services worker will complete the relevant interview forms. The Adoption Services supervisor will consider and approve the applicant attending the education program for either local or intercountry adoption.

4.4 Local and intercountry adoption education

Education workshops have been developed for the applicant seeking to adopt a child locally and overseas.

For local adoptions, adoption pre-assessment education is guided by a national curriculum determined by the Australian Government in conjunction with the states and territories. During the education program, participants will be asked to complete a [Local Adoption, Stage 2 Education workbook](#).

For intercountry adoption participants, the workshops cover the Australian Nationally Consistent Core Curriculum (NCCC). Applicants are required to complete the education process and document their participation in an [Intercountry Adoption, Stage 2 Education workbook](#). Adoption Services are required to track participation and the completion of the activities outlined in each workshop. More information on the NCCC is available at www.ag.gov.au/intercountryadoption.

For both local and intercountry adoptions, participants are issued with a [Certificate of participation](#) at the completion of the education program.

For local and intercountry adoptions Adoption Services are required to check that the applicant has also completed the following mandatory training:

- senior first aid
- Through their Eyes – Safe Environments for Children and Young People
- safe infant care.

For local and intercountry adoptions, Adoption Services will conduct a post education interview and complete the [Stage 2 education proforma](#) at the completion of the education program.

4.5 Invitation to apply

Once the education requirements are met, the Adoption Services worker will, invite the applicant to complete the relevant [Adoption Application](#).

The Adoption Services worker will contact the applicant, via email or letter, to request them to complete a resume using the [Getting to know you Form](#) as a guide, and provide the details of three referees.

The Adoption Services worker will send a referee letter, or email, to the identified referees requesting they complete a referee statement. Upon receipt of the application and subsequent referee reports, the Adoption Services worker will meet with the applicant for the purpose of preparing a family assessment report.

4.5.1 Assessment of applicants

The Adoption Services worker will only commence an assessment when the education requirements for local or intercountry adoption are completed and the applicant has made an application to be placed on the adoption register.

The Adoption Services worker will obtain the information required to complete a Family Assessment Report ([Adoption assessment report](#)). A home safety check will be undertaken as part of the assessment process. The Adoption Services worker completes the assessment in the home of the applicant. The assessment will include the following information about the applicant:

- motivation to adopt; childhood experiences; attitude to infertility; parenting skills or potential parenting skills; the emotional warmth, maturity and stability of the applicant; approach to discipline
- the capacity of the applicant to deal with difficult or stressful situations and the familial, social and other support available to the applicant
- capacity of the applicant to provide, throughout the child or young person's childhood/youth, the standard of care necessary to safeguard and promote the physical, intellectual and emotional welfare of the child or young person
- if caring for other children, the impact that will have on their ability to care for an adopted child and the impact of adoption on any biological or other children
- attitude of the applicant's family and extended family to adoption
- if the applicant has expressed an interest in adopting a child with special needs—the capacity of the applicant to provide the standard of care required to fulfil the needs of such a child throughout the child's childhood and, if it is likely to be necessary because of the child's special needs, into adulthood
- if the applicant has expressed an interest in adopting a child of a particular cultural heritage—the applicant's understanding of, and interest in, people of that cultural heritage and the applicant's attitude towards the retention by such a child of the child's cultural heritage. The applicant's willingness to provide open discussions with the child about their family members, their culture and their thoughts and feelings about being adopted.

4.5.2 Local adoption and intercountry adoption assessment templates

The Family Assessment Report will be completed by the allocated Adoption Services worker on the relevant template ([Adoption assessment report](#)) and provided to the Adoption Services supervisor for an approval decision.

4.5.3 Assessment recommendation

The Adoption Services worker will make a recommendation, or non-recommendation, regarding the applicant's suitability and capacity to meet the country requirements for intercountry adoption or the applicant's suitability for local adoption. The Adoption Services supervisor has the delegated authority to make the decision regarding whether or not to approve a person as a PAP and place them on the adoption register. The Adoption Services supervisor will review all of the available information in making this decision, noting a decision must be made within 18 months of the date on which the application was lodged.

4.5.4 Certificate of registration

If the Adoption Services supervisor approves the recommendation, a certificate of PAP registration is issued to both intercountry adoption and local adoption approved applicants. The PAP are then recorded on the local or intercountry adoption register. The Certificate of PAP registration is valid for three years and can be renewed.

4.5.5 Registering a person on the Adoption Register

The Adoption Services worker will advise the applicant that their registration as a PAP is for a period of three years and that may be renewed in accordance with the *Adoption (General) Regulations 2018*.

The Adoption Services worker will advise the applicant that an application for renewal of registration must be lodged not more than three months and not less than one month before the period of registration expires. The Chief Executive may, at their discretion, accept a late application for renewal of registration.

A person may only apply for renewal of registration if the person continues to meet the minimum requirements for applicants for registration set out in regulation 9 of the *Adoption (General) Regulations 2018*.

Regulation 14(5) provides that on receipt of an application for renewal of registration, the Chief Executive must cause the assessment report relating to the applicant to be reviewed having regard to any changes in circumstances of the applicant in the period since that report was prepared or was last reviewed. This will occur once the Adoption Services worker receives the application and referee reports.

A person who is registered as a single PAP and who following registration, commences living together with another person in a qualifying relationship may, if the other person meets the minimum requirements as stipulated in regulation 9 of the *Adoption (General) Regulations 2018*, apply jointly with that other person to have the registration converted into joint registration. Where a person's initial registration is converted into joint registration, the date for the joint registration will be recorded on the day the person's initial registration occurred.

Following an application, or at any other time, a PAP can advise Adoption Services they wish to have their EOI or application placed on hold or withdrawn.

4.5.6 Rejection of an application

If the Adoption Services supervisor intends to reject the application, they are required to provide the applicant:

- written notice of the intent to reject the application
- copies of any related documents such as education information or assessment reports
- an opportunity to make representations on the matter
- information about their right to seek a review of the decision, the procedures and time limits that apply in respect of seeking a review.

Applicants who wish to seek a review of the decision must apply to the [South Australian Civil and Administrative Tribunal](#) (SACAT) for a review of the decision. If the review is successful then Adoption Services will allocate a different worker to re-assess the applicants. If the review is not successful, the applicant's adoption file will be closed and a note placed on the hard copy and electronic file.

4.5.7 Cancellation of registration

Section 15 of the *Adoption (General) Regulations 2018*, outlines the situations in which a PAP registration will be cancelled. The registration of a person as a PAP will be cancelled if a child is placed for adoption with that person or by the Chief Executive if:

- the person ceases to be resident or domiciled in this state; or
- the person ceases to be permanently resident in Australia; or
- the person ceases to be an Australian citizen and, in the case of joint registration, the person with whom they are jointly registered is not an Australian citizen; or
- a child is removed from the care or custody of that person under the *Children and Young People (Safety) Act 2017*, or any other similar law of this state or another state or a territory of the Commonwealth; or

- the person is a prohibited person within the meaning of section 15 of the *Child Safety (Prohibited Persons) Act 2016*; (this will include people convicted of criminal neglect or convicted of any other offence involving violence towards a child, abuse of a child or abduction of a child)
- the person's registration is transferred to another State or territory
- the registration was improperly obtained.

The Adoption Services supervisor will ensure the PAP is removed from the adoption registers if any of the above conditions are met.

Registration as a PAP will also cease in the following circumstances:

- on written notice of withdrawal being given to the Chief Executive by the registered person or, in the case of persons with joint registration, on the written notice of either of the registered persons; or
- on the death of the registered person.

4.6 Intercountry adoption applications

Each country has its own criteria for determining when a child is made available for adoption. Adoption Services are required to be familiar with these requirements, including:

- formal applications to adopt a child
- letters of reference
- certificates (marriage, citizenship)
- family assessment and medical reports
- translation instructions
- cover letters
- forms and checklists
- photographs.

4.6.1 Submit applications on behalf of PAP to the partner country

Adoption Services are required to:

- compile and forward required documentation in a dossier to the country from which an adoption is being sought (country of origin)
- provide ongoing casework support to the PAP during the process of application and decision making.

A PAP can, in writing to Adoption Services, request to change the country they nominated for intercountry adoption. If this occurs, an updated family assessment report is required and additional fees will be payable.

Adoption Services are required to advise the PAP that a dossier cannot be forwarded to a new country of choice until the current dossier is cancelled and returned from the current country of choice.

4.6.2 Determine the suitability of a country's match

When a placement is proposed by an overseas program, information is sent to Adoption Services to determine if the PAP and the child are a suitable match. This includes:

- reports from the country of origin providing information about the child
- information from the country of origin regarding the consent of birth parents, birth family or guardians to the child being adopted
- information from the country of origin regarding the child's consents and/or wishes to being adopted.

The Adoption Services worker is required to:

- review this documentation and any reports and raise any concerns to the [Australian Central Authority \(ACA\)](#) for follow-up to ensure the adoption only proceeds where it is clear that consent has been obtained legally
- confirm that the match is suitable and that the PAP have the necessary competencies to meet the holistic needs of the specific child
- send the PAP information about the child.

If the Adoption Services worker is satisfied that the match is appropriate, the Adoption Services worker will organise two allocation meetings with the PAP to progress the adoption. During this period, the PAP are encouraged to seek external advice to assist in their decision making.

4.6.3 Decline of an application by an overseas country

If an overseas country declines an application to adopt a child from that country, the Adoption Services worker will liaise with the overseas country to discuss the application, request the file be returned to Adoption Services and work with the PAP to determine suitability for alternative programs. During this process, the PAP may choose to withdraw from the adoption process and have their file closed.

4.6.4 Matching and allocation

If the PAP accepts the placement proposal, the Adoption Services worker will support the PAP to:

- formally accept the allocation with the intercountry adoption program
- prepare their travel and immigration documentation
- facilitate contact between the child in their country of origin and the PAP
- plan and prepare for the child's transition into their care.

If the PAP decides not to progress, they will be required to formally decline the allocation with the intercountry adoption program and will revert to a waiting list. The Adoption Services worker will meet with the PAP to review their child preferences. In this meeting, they will re-explore their parenting capacity to support future suitable matching/allocation with a child.

4.6.5 Support the PAP to take custody of a child

Adoption Services role in supporting the PAP bringing a child to Australia includes providing factual information about the existing Australian or other countries requirements to:

- travel to the overseas country
- await finalisation of the overseas country's court and/or formal approval processes
- ensure the transition plan is enacted in collaboration with the intercountry adoption program, foster carers/children's home and workers - child placed in care of PAP
- fulfil immigration requirements and bring the child to South Australia.

The Adoption Services worker will:

- request/receive fortnightly updates on the child and maintain contact with PAP
- provide ongoing support to the PAP whilst overseas
- liaise with the intercountry adoption program as required.

4.6.6 Post placement

Once the PAP has taken custody of a child and returned to South Australia, the Adoption Services worker will:

- provide ongoing case management support to the family until the adoption is finalised

- plan with the PAP for mandatory progress reports to be completed for the intercountry adoption program, noting the number, frequency and duration differs between each program
- support the PAP with any court proceedings required for intercountry adoptions that need to be finalised in Australia. Please refer to section [4.8.4](#) within this procedure for further information.

4.7 Intercountry adoption special needs list

From time to time overseas countries go through an agreed process, to identify if there are PAP who would meet the needs of particular children with special needs. Adoption Services will use the information provided by the PAP, along with education, assessment and interview information and other reports, to support the identification of potential matches. Once identified, the matching and allocation process (as described) is progressed.

4.8 Local adoption allocation and matching

Pursuant to sections 24 and 25 of the *Adoption Act 1988*, once each parent has consented to the adoption of the child, the VCA is terminated and the Chief Executive becomes the guardian of the child.

4.8.1 Provision of social work support while child is under the Guardianship of the Chief Executive until adoption order is granted

Once the child is under the guardianship of the Chief Executive, the Adoption Services worker will discuss with the parents what they hope for in regard to the person who will be adopting their child.

Regulation 19(1) which provides that the PAP will be selected in the order in which their names appear on the register, unless one of the criteria in regulation 19(2) applies. Noting a person can be excluded from selection by Adoption services in the following circumstances:

- a. the adoption of the child by the person would be inconsistent with a limitation of the consent to the adoption of a parent or guardian of the child; or
- b. the adoption of the child by the person would be contrary to the wishes of the child's birth parent or guardian; or
- c. in relation to a child who is resident in a country outside Australia—the requirements of the law of that country governing the adoption of children; or
- d. the adoption of the child by another person whose name is included in the register would, in the particular circumstances of the child, better safeguard and promote the best interests, rights and welfare of the child; or
- e. the registration of the person on the register is liable to cancellation; or
- f. the person is living together with another person in a qualifying relationship but the other person is not jointly registered with the person as a prospective adoptive parent; or
- g. the person is lawfully married but not living together with the person's spouse and the spouse does not consent to the adoption; or
- h. the Court is unlikely to make an adoption order in favour of the person on a ground set out in the Act.

Once potential matches are identified, profiles of the PAP are provided to the parents. The birth parents are encouraged to seek assistance from friends, relatives or professionals to assist them in selecting an adoptive parent for their child. Parents are asked to rate their choices in case their first choice declines the match. If parents are not able to rank their choices the PAP who was registered first must be chosen first.

4.8.2 Allocation of child to a registered PAP

The selected PAP is contacted by the Adoption Services worker to let them know that they have been matched with a child. The Adoption Services worker will provide de-identified information about the child and their story to the PAP. The PAP are given at least 24 hours to make their decision. The PAP are encouraged to think through all of the potential issues a child may have given their circumstances and make a head and heart decision.

If the PAP decline the allocation, the second choice is contacted and provided with the same information. Once the allocation has been accepted, the Adoption Services worker provides additional identifying information to the PAP. Parents are invited to meet the PAP if they wish.

4.8.3 Transition of child from foster care to adoptive family

Prior to the placement of a child or young person, the Adoption Services worker will request confirmation that there have been no changes in the PAP circumstances. The Adoption Services worker will request that the PAP complete and send acceptance of conditions for placement of a child for adoption, to Adoption Services before a placement is progressed. The PAP meet the child or young person and foster carers. A transition plan is developed between the foster carers, PAP and Adoption Services that meets the needs of the child or young person.

The Adoption Services worker provides support to the child or young person and the PAP to ensure appropriate bonding/attachment between them. The Adoption Services worker encourages foster carers to maintain involvement with the child or young person.

The Adoption Services worker is required to monitor the placement to identify that the:

- child or young person is adjusting well to the transition and the adoptive family
- PAP are confident in and capable of meeting the child or young person's cultural, emotional, physical and developmental needs
- PAP are responsive to challenges that emerge in child or young person's transition into their care and are capable of seeking professional supports when needs are identified
- PAP and birth parents are able to respectfully engage in post-placement contact in accordance with the *Adoption Act 1988* under a section 26A agreement, with focus on the needs of their child
- PAP respect and comply with the section 26A agreement and the expressed wishes of the birth parents even when birth parents are not able to remain in contact with their child and the PAP
- workers have not identified current or foreseeable risks in the child or young person's placement with the PAP.

4.8.4 Application for an adoption order

When the PAP are ready to submit an application to adopt the child placed with them, the Adoption Services worker will:

- recommend the PAP seek legal advice or legal support
- clarify that Adoption Services are not a party to the application for an adoption order
- advise the PAP that the application form and relevant fee information is available from the Youth Court website.

Once the [Adoption application Form](#) and other supporting documentation is complete, the PAP can lodge the application with the Youth Court. Once received, the Youth Court will set a date for a first directions hearing.

The PAP, or their lawyer will be advised if the PAP's attendance at the direction hearing is required. The Crown Solicitor's Office (CSO) will advise Adoption Services of the first hearing date.

At the first directions hearing the Judge will make orders for the filing of documents and any other procedural steps. This may include:

- legal representation for the child or young person by the Legal Services Commission
- the completion of a section 22 Report, which includes the involvement of Adoption Services, the placement process, counselling with birth parents and post-placement progress
- any affidavit material (affidavits required to be signed by Adoption Services will be prepared by the CSO).

The Adoption Services worker is required to attach the following supporting documents to the section 22 Report:

- identification document of the child, such as birth certificate
- section 26A post-placement agreements
- birth parents' consent forms (NOT the pre-consent checklists)
- dispensation order for birth parent's consent
- any other documents referenced in the Section 22 Report, such as Life Story Books, medical reports, psychological reports, etc.

The adoption application must be served on the birth parents by the PAP. When Adoption Services have the birth parents' address but cannot share this information with the PAP and their lawyer, the DCP case worker is required to consult with the CSO. If a birth parent's address is unknown to PAP and their lawyer, they may make an application to dispense with service on the birth parents.

If the Youth Court orders Adoption Services to serve the birth parents, an Affidavit of Service or an Affidavit of Attempted Service must be provided to the Youth Court, depending on the outcome of service the following information should be provided to the PAP:

- before the Judge makes a decision regarding an adoption order, there can be more than two hearings
- a child over five years of age will be independently interviewed by the Judge during the hearing
- if the Judge favours an adoption outcome, the Youth Court will issue an adoption order to the PAP and will notify Births, Deaths and Marriages (BDM) of the finalisation of an adoption.

The Adoption Services worker will attend the second/final hearing to provide support to the PAP and the child or young person. After an adoption order is granted, the Adoption Services worker will:

- request a copy of the adoption order from the PAP
- send a closure letter to the PAP and to the birth parents
- review the file and provide the PAP any documents, photos or important dates relating to the child or young person in order to help them fill any gaps in their child's life story.

4.8.5 Discharging an adoption order

Section 14 of the *Adoption Act 1988* provides that an eligible person may apply to the Court for an order discharging an adoption order (a discharge order) on the grounds that:

- the adoption order or a consent for the purposes of the adoption order was obtained by fraud, duress or other improper means; or
- it is in the best interests of the adopted person, taking into account the rights and welfare of the adopted person, for the discharge order to be made.

The Court can direct that an investigation be made into the circumstances relating to the application. Where the Court directs an investigation, Adoption Services will:

- receive information from the Court outlining the particulars of the situation and the information to be investigated by Adoption Services
- establish contact with relevant parties (adoptee, adoptive parents and/or birth parents) – this may be done directly with each party or via their legal representative
- conduct an investigation (interviews with relevant parties)
- complete an investigation report and provide it to the CSO
- provide documentation to the CSO for the Youth Court
- refer to the Investigation Report
- attend the second hearing.

4.9 Step parent and adult adoptions

Adoption Services provide information to interested parties regarding the [step parent](#) and [adult adoption](#) process. This [information](#) is provided to enable interested parties to understand the implications and consequences of adoption including that:

- adoption is a permanent and legal arrangement
- consent is required from the person to be adopted if they are over twelve years of age
- consent is required from the person to be adopted by parents and guardians
- counselling and other supports and services are available where appropriate.

Section 10 of the *Adoption Act 1988* provides that the Court will not make an adoption order for a child under the age of 18 unless it is satisfied that adoption is in the best interests of the child and, taking into account the rights and welfare of the child, clearly preferable to any alternative order that may be made under the laws of the State of the Commonwealth. The South Australian Youth Court will not consider a step parent adoption application, unless the Family Court of Australia has given the step parent leave to proceed with the application under section 60G of the *Family Law Act 1975*.

Section 10A of the *Adoption Act 1988* governs adult adoption.

[Adult adoption orders](#) are made by the Youth Court of South Australia. When a person is seeking to adopt a young person who is over 18 years of age the Youth Court needs to be satisfied that:

- a significant parent to child relationship existed between the PAP or parents and the child before the child attained the age of 18 years; and
- the young person appears to understand the consequences of adoption on the child's interests, rights and welfare.

The person to be adopted and their parents or guardians must consent to the adoption. Consent can only be provided following counselling and must be provided at least three calendar days before written consent. Adoption Services are required to be involved in the counselling process and in the witnessing of consents for step parent and adult adoptions. The process for obtaining consent/ witnessing/dispensation/ consultation with recognised Aboriginal organisations are the same as for any other adoption.

The Adoption Services worker is required to meet with the young person over 12 who is being asked to consent to adoption to:

- provide them with information about adoption including that:
 - it is a permanent and legal order
 - adoptive parents will become their legal parents

- some key decisions need to be made in regard to the changes to their birth certificates - both names –birth parents and adoptive parents can be on the birth certificate
 - ongoing contact with their birth parents, siblings, grandparents and key people in their life can continue after adoption
 - information needs to be provided to the court confirming that the young person wants to be adopted
 - the young person needs to talk about the changes with a key person such as a counsellor to ensure the young person understands the process and the potential outcome and can make an informed decision in regard to being adopted
- support the young person to access and attend counselling
 - be advised of the outcome of the information sharing and counselling
 - organise the witnessing of consent.

Birth parents have 25 calendar days from the consent to withdraw their consent, and the time can be extended by another 14 calendar days if they require further time to consider their decision. The Youth Court may make an order dispensing with consent in certain circumstances.

The Youth Court may request the department to provide a report. The Adoption Services worker will meet with the parties to an adoption, gather information and prepare a report to the Youth Court. Adoption Services will provide the report to the parties to the application.

4.10 Financially Assisted Adoptions

In exceptional circumstances, DCP may provide financial assistance to contribute to the ongoing costs of care for a child after they have been adopted. This is determined on a case-by-case basis, in accordance with the requirements in section 26 of the Adoption Act. Applications for financial support are prepared by Adoption Services and are approved by the Chief Executive.

4.11 Supporting past adoptions

Adoption Services hold a number of responsibilities in regard to past adoptions including:

- working with the Freedom of Information (FOI) Team as required regarding the release of information about past adoptions
 - From 17 December 2022 vetoes were repealed. If a person had an active veto that was placed with the department prior to 18 December 2017, it continued to apply until 17 December 2022, unless revoked earlier. After 18 December 2017, no person can place a new veto or renew an existing veto with the department. People that held a veto were invited to lodge a [Statement of Wishes](#) held by the DCP FOI team and Birth Deaths and Marriages.
- referring parties to an adoption to appropriate support services, if a need is identified
- maintaining records relating to adoption, including arrangements for sharing of information
- in the case of intercountry adoption, facilitating the provision of annual adoption updates, regular updates and documentation and post-adoption reports, as required, to the overseas country
- notifying parties to an adoption of a death of another party – specifically related to birth parents, adoptees and siblings [Notification of the death of a party to an adoption](#)
- undertaking annual reviews of financial assistance provided to adoptive parents and reporting on the financial assistance program
- providing professional support to people seeking to access their documents.

4.12 Post adoption agreements

Adoption Services are responsible for maintaining records of post adoption agreements (section 26A). Adoption Services undertake the following steps:

- send a reminder to the adoptive family one month before information is required
- provide received information to birth parents in a timely manner. If there are delays in this process ensure that the birth parents are kept informed
- update the Post Adoption Agreements (section 26A) spreadsheet and record the next due date for information to be provided
- ensure contact information is recorded in the section 26A file
- ensure photocopies of any cards, reports and letters are placed on the child or young person's file.

4.13 Regular consultation with organisations with a special interest in the adoption of children

Adoption Services will engage with and provide information to community groups and organisations interested in adoption.

4.14 Recording

Each financial year the department has a reporting obligation to provide [Australian Institute of Health and Welfare](#) (AIHW) data relating to local and intercountry adoption. In July the Adoption Services team is responsible for accurately collecting and reporting the preceding financial year's data to the Quality and Practice Directorate.

5. Compliance, and monitoring

Adoption Services supervisor provides oversight of activity and compliance with legislation and reports to the Manager, Carer Assessment Teams.

Adoption Services provides information and data as part of Out of Home Care performance reporting as required.

This document will be reviewed every three years to ensure currency and applicability, or more frequently if there are any changes to workplace practices and/or relevant legislation.

Staff will monitor compliance against this procedure and advise [Out of Home Care Operational Support](#) of any changes.

6. Related documents

Related documents, forms and templates
Local adoption Policy
Intercountry adoption Policy
Adoption Services: Voluntary Custody Agreement (VCA)



Adoption Services- Birth parents consent for the adoption of a child Form
Adoption Services: Child's consent to be adopted Form
Adoption Services: Expression of Interest to adopt a child
Adoption Services: Statement of understanding by adoption applicants
Adoption Services: Health statement Form
Adoption Services- Medical report on prospective adoptive parent
Adoption Services: Consent to release information Form
Adoption Services: Local Adoption Stage 2 Education Workbook
Adoption Services: Intercountry Adoption Stage 2 Education Workbook
Adoption Services- Pre adoption education program - Certificate of participation
Adoption Services- Stage 2 education proforma (Local and Intercountry)
Adoption Services- Adoption application Form
Adoption Services: Getting to know you Form
Adoption Services- Adoption assessment report for local and intercountry adoption

Document control

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