

Local adoption Policy

1. Purpose

This policy specifies how the Department for Child Protection (DCP) meets its obligations under the *Adoption Act 1988* (the Adoption Act) for local adoption.

2. Scope

The policy applies to DCP staff involved in the process for local adoptions.

In this policy, local adoption refers to adoption of a child born or permanently residing in South Australia and includes adoption by step-parents and adult adoption.

This policy does not include intercountry adoption or adoption from care. Please refer to the [Intercountry Adoption Policy](#) for more information.

3. Authority

3.1 Legislative context

- [Adoption Act 1988](#) (Adoption Act)
- [Adoption \(General\) Regulations 2018](#) (Adoption Regulations)
- [Child Safety \(Prohibited Persons\) Act 2016](#)

3.2 Whole of Government requirements

Not applicable.

3.3 DCP requirements

DCP fulfils its obligations under the Adoption Act and the Adoption Regulations in accordance with the DCP [Legislative Compliance Framework](#).

Adoption policy and practice is guided by the following:

- Memorandum of Administrative Arrangement between DCP and the South Australian Registrar of Births, Deaths and Marriages (accessible via the [DCP Partnerships Agreements, Agreement Register](#))
- [Culturally and Linguistically Diverse Child Placement Policy](#)
- [Aboriginal and Torres Strait Islander Child Placement Principle](#)
- [Consult with a recognised organisation \(for Aboriginal children and young people\)](#) – section of the Manual of Practice.

3.4 Principles

This policy is informed by the objects and guiding principles of the Adoption Act. These include:

- the best interests of children and young people both in childhood and in later life is the paramount consideration

- other options for providing permanency of care for a child or young person are to be considered prior to adoption
- the child or young person's views must be taken into account
- openness in adoption is encouraged as being in the best interests of the child or young person
- if contact with the birth family is not appropriate or possible, the child or young person should have knowledge of their birth family, kin and cultural heritage and be supported to learn about and connect with their culture
- access should be provided to certain information relating to adoptions.

4. Policy requirements

Local adoption occurs when parents of a South Australian child make a decision to place their child for adoption. In South Australia adoption orders are made by the Youth Court. An adoption order establishes a legally recognised parent-child relationship between the child and their adoptive parents.

DCP works in a child-centred way with all parties to an adoption. The parties to an adoption are the child or young person being adopted, the birth parents who are considering adoption for their child and persons who wish to adopt.

4.1 Roles and responsibilities

DCP is the sole agency in South Australia that can arrange local adoptions. Within DCP, the adoption process is managed by a specialist unit, Adoption Services.

A key function undertaken by DCP is managing the Prospective Adoptive Parents Register (PAPR). Pursuant to regulation 7 of the Adoption Regulations the PAPR is divided into sub-registers relating to children of a particular kind. Prospective adoptive parents apply to be registered under a particular sub-register. DCP operates the following sub-registers:

- Local Adoption Register
- Intercountry Adoption Register.

As far as possible, DCP intends that the Registers reflects the diversity of the South Australian community. DCP's role in the local adoption process is to:

- provide counselling and information for birth parents who are considering relinquishing their child and ensure all other alternatives to adoption have been explored. Birth parents must be provided with a copy of the 'Considering Adoption' booklet
- obtain parent or guardian consent to the adoption
- in the case of an adoption of an Aboriginal child, ensure that the person is aware of the availability of further specialised counselling from Aboriginal organisations and help the person to obtain such counselling if the person so wishes, in accordance of section 5(1d) of the Adoptions Regulations
- provide case work support for a child whilst their birth parents are considering adoption, including initiating an adoption voluntary custody agreement and arranging foster care if this is required
- where foster care is required, work collaboratively with the service provider to support the carer(s) in meeting the needs of the child
- manage screening, education and assessment of applicants, for placement on the PAPR

- provide ongoing case work support, including education and planning for prospective adoptive parents on the Local Adoption Register
- allocate and place children with prospective adoptive parents and provide support during this transition and until an adoption order is finalised
- develop post-adoption agreements between birth families, the child and adoptive families and administer the requirements of these agreements
- seek approval for financial assistance for adoptions where applicable.

DCP is also responsible for a range of functions related to supporting past adoptions including:

- providing counselling support in connection with the release of information about past adoptions to certain parties according to the requirements in the Adoption Act
- providing parties to an adoption with referrals to appropriate support services, if a need is identified
- maintaining records relating to adoption, including arrangements for sharing of information and vetoes on disclosure of information (noting that the provisions allowing vetoes have been removed from the Adoption Act and vetoes will come to an end after 17 December 2022 unless revoked earlier)
- notifying parties to an adoption of a death of another party – specifically related to birth parents, adoptees and siblings
- undertaking annual reviews and reporting on financial assistance provided to adoptive parents.

DCP Legal Services' Freedom of Information Team is responsible for releasing information about adoptions. DCP also contracts Relationships Australia SA to provide post adoption support services for adoptees, birth parents and adoptive parents.

4.2 Eligibility

Persons wishing to apply to be registered on the PAPR must meet the minimum criteria set out in the Adoption Act and Adoption Regulations (regulation 9). These are that an applicant must:

- be a resident or domiciled in South Australia
- be aged 18 years or over
- be a permanent resident of Australia
- be an Australian citizen, or in the case of joint applicants, at least one of the applicants must be an Australian citizen
- not have had a previous registration cancelled on the grounds that it was improperly obtained
- not be a prohibited person under the *Child Safety (Prohibited Persons) Act 2016*
- not have had a child removed from their care under child protection legislation in South Australia, or any other State or Territory
- not have been convicted of an offence of:
 - violence towards a child
 - abuse of a child
 - abduction of a child
 - criminal neglect.

Applicant couples wishing to adopt a child together must have been living together in a qualifying relationship for at least five years in order to adopt, unless special circumstances apply (section 12 of the Adoption Act). This includes step-parent adoption and adult adoption.

In addition to these legislative requirements, DCP also requires persons wishing to apply to be registered on the PAPR to hold:

- a valid Working with Children Check (for applicants and their regular household guests)
- a check of child protection information held by DCP (for applicants and their regular household guests).

For those applicants who have stayed for an extended period in an overseas country, a police clearance for this country may be required.

Eligibility is determined during a screening interview, following attendance at an information session and receipt of Expression of Interest documentation.

4.3 Assessment

DCP assesses applicants' suitability to be placed on the PAPR according to requirements set out in regulation 10 of the Adoption Regulations.

Adoption Services' assessment process comprises the following components:

1. **Training and education about adoption:** - Applicants are required to attend and complete compulsory education workshops, inclusive of mandatory training which is facilitated by Adoption Services.

Once interested persons have completed the mandatory training requirements of the education workshops, Adoption Services will formally invite them (through an 'Invitation to Apply') to express their interest in being registered as a prospective adoptive parent on the Local Adoption Register. Following receipt of an expression of interest, Adoptions Services will then assess and consider their placement on the Local Adoption Register.

2. **Information gathering:** Adoption Services seeks a range of reports to provide information about applicant's circumstances and to help assess their suitability to adopt. These can include:
 - a general health assessment
 - other specialist medical or psychological reports
 - financial statements
 - home safety checklist
 - three referee statements from individuals who can provide comment (as is relevant) on the person's parenting, repute, relationships, cultural fitness and suitability to adopt
 - information from other third parties, such as schools or child care centres.

Adoption Services may also interview relevant persons or services to gather additional information to assess applicant's suitability as prospective adoptive parents.

3. **Home assessment visits:** Adoption Services will meet and interview applicants and their children at their home or in a DCP office location. In some instances, Adoption Services may also speak with extended family or friends.

The assessment process considers the suitability and capacity of applicants against the factors set out in regulation 10(4) of the Adoption Regulations. The assessment will also take into consideration the special

needs of children and the characteristics needed to care for a particular type of child, for example a child with special medical needs, to determine that the applicant can suitability care for specific children.

Adoption Services will prepare a written report containing an assessment of the suitability of the applicant to adopt and of their capacity to adequately care for a local child. After considering the report, the Supervisor, Adoption Services, has the delegated authority to determine if the applicant is a suitable person to adopt a local child and register the applicant on the Local Adoption Register.

A decision on an application for registration as a prospective adoptive parent must be made within 18 months. Adoption Services will advise applicants in writing of the decision to approve or reject their application for registration on the PAPR and provide a copy of the assessment report, as required by regulation 11 of the Adoption Regulations. Where an application has been rejected, in accordance with regulation 11(6) an applicant will also receive additional information of their right to seek a review of the decision (see section 4.12 below).

4.4 Placement

DCP seeks to place children with prospective adoptive parents in a manner that prioritises the best interests of the child and the wishes of birth parents.

Wherever possible, DCP will match a child with prospective adoptive parents in order to safeguard and promote the best interests, rights and welfare of the child (regulation 19(2)(c)).

Decisions about placing a child will also reflect the preferences of birth parents wherever possible (regulation 19(2)(b)(i)), as well as taking into consideration the culture and heritage of a child in the case of Aboriginal children or children from culturally and linguistically diverse backgrounds.

Where there are a number of prospective adoptive parents that meet the preference of the birth parents and the best interests, rights and welfare of the child, or the birth parents do not have a preference, in accordance of section 19(1) of the Adoption Regulations, children will be placed with an adoptive family on the basis of order of registration.

Once each parent or guardian has consented to the adoption of a child, the Chief Executive of DCP is the guardian of that child while placed with prospective adoptive parents until the adoption order is made by the Youth Court (section 25 of the Adoption Act). Adoption Services is responsible for administering guardianship of children during this pre adoption placement period. Adoption Services also provides case management support to adoptive families during this pre adoption placement period. An application to the Youth Court for an adoption order is made by the prospective adopters after a child has been placed with them. This does not occur immediately after the child has been placed, but usually between six to twelve months following the commencement of the pre-adoption placement. DCP supports the legal process by completing required reports set out in the Adoption Act. DCP also funds independent legal representation in the Youth Court for children and young people being adopted in instances where the Court determines legal representation is required.

Pursuant to regulation 19(4) of the Adoption Regulations, the Chief Executive must have regard to prospective adoptive parents who have a child residing with them for less than 12 months, or is likely to have a child residing with them in the next two years following selection, to ensure that the adoption is in the best interests of all new children entering the household

4.5 Post adoption

Pursuant to section 26A of the Adoption Act, where both parties agree DCP will facilitate the development of a Post Adoption Agreement between a child's birth and adoptive parents. The Post Adoption Agreement sets out the arrangements for the provision of information, contact and any other matters related to the welfare

of the child post adoption. Post Adoption Agreements are not legally binding and are designed to reflect the unique circumstances and intentions for a child being adopted.

Post Adoption Agreements are developed at the time of a child being placed with adoptive parents. They may be varied over time and exist until the child turns eighteen years of age.

Adoption Services facilitates negotiation and ongoing operation of these arrangements by enabling contact (face to face, telephone, electronic contact such as emails or texts) between birth parents and adoptive parents. Adoption Services can also pass on gifts and other similar items.

DCP is required to maintain a register of all Post Adoption Agreements (section 26A of the Adoption Act).

4.6 Aboriginal children

DCP recognises the importance of maintaining an Aboriginal child or young person's connection to their kin, community, culture and country. DCP actively applies the Aboriginal and Torres Strait Islander Child Placement Principle with regard to its involvement with Aboriginal children or young people.

Decisions about the adoption of Aboriginal children will be made in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle and consistent with section 11 of the Adoption Act and regulation 4 of the Adoption Regulations. This includes ensuring that adoption only occurs when it is in the best interests of the child and clearly preferable to any alternative order that could be made. Before determining whether to make an order for the adoption of an Aboriginal child, section 11(1a) required the Court to consider a report from DCP setting out consultation that has occurred with a recognised Aboriginal or Torres Strait Islander organisation and any submissions made by or on behalf of the recognised organisation.

4.7 Culturally and linguistically diverse (CALD) children

DCP recognises the importance of maintaining a child or young person's connections to their cultural and ethnic identity in order to promote positive outcomes.

If a CALD child is determined to be in need of adoption, Adoption Services will assess the suitability of registered prospective adoptive parents to provide a culturally appropriate placement. Decisions will be made in accordance with the placement hierarchy in the DCP [Culturally and Linguistically Diverse Child Placement Policy](#), and where required, in consultation with DCP Multicultural Services.

4.8 Step-parent adoption

The term 'step-parent adoption' is used when a person seeks to adopt their spouse or partner's child.

Section 10(2) of the Adoption Act provides that the Youth Court will not consider a step parent adoption unless the Family Court of Australia has granted the applicant leave to proceed with the adoption application. The Family Court will consider the best interests of the child and take into account the child's existing relationship with both their biological parents and arrangements for parental responsibility, recognising the importance of preserving a child's relationship with birth parent wherever possible.

DCP considers that a parenting order made by the Family Court is the preferred avenue to provide the security of a legal relationship between a child and their step-parent. An adoption order may not be in the best interests of a child as it severs the legal relationship between a child and their birth parents.

4.9 Adult adoption

An adoption order in relation to an adult may be granted by the Youth Court if there was a significant parent to child relationship which existed between the intending adoptive parents and the adult before they attained 18 years.

In accordance with section 10A of the Adoption Act, the adult being adopted must understand the consequences of adoption on their interests, rights and welfare. The adult must consent to the adoption and the consent of their birth parents or guardians is also required.

Adoption Services manages the process of obtaining consents and provides counselling for both the adult being adopted and their birth parents or guardians to ensure they understand the consequences of adoption. Adoption Services also provides an information brochure that includes details of available support services and alternatives to adoption (regulation 5).

In some instances, DCP may be required by the Youth Court to undertake an assessment report to assist the Court in determining whether the adoption order should be made.

4.10 Consent of birth parents

An adoption order will not be made by the Court unless each person who is a parent or guardian of the child has consented to the adoption.

Adoption Services provides information, counselling and casework support to parents who feel unable to care for their child and are considering adoption. Adoption Services explores the barriers preventing parents from caring for their child and coordinates supports for parents whilst they consider if adoption is the preferred option for them and their child and helps them work through this decision. Short-term foster care may be arranged for the child during this time. This requires an Adoption Voluntary Custody Arrangement (VCA) to be signed by the parent(s).

Adoption Services provides an information brochure that includes details of available support services and alternatives to adoption (regulation 5).

Before consent to adoption can be given, a social worker from Adoption Services will arrange a counselling session.

Where a birth parent has determined that they wish to proceed with relinquishing their child for adoption, Adoption Services will continue to provide counselling and information for birth parents or guardians to understand the consequences of adoption.

Each parent or guardian must provide their consent to adoption. Adoption Services obtains the required consents process in accordance with the requirements set out in section 15 of the Adoption Act and regulation 6 of the Adoption Regulations. An Adoption Services' social worker/supervisor will complete the consent form with the birth parent(s) and a separate social worker/supervisor will witness this.

In accordance with the requirements set out in section 18 of the Adoption Act, the Court may dispense with the consent of a person (other than the child) to an adoption where a person cannot be identified, if a child is intellectually incapable of giving consent or an application is made by the Chief Executive or party to the adoption.

4.11 Views of the child and consent

There are various ways that the views of a child being adopted are recognised and promoted in the adoption process.

The Youth Court is required to interview a child aged five years and over to obtain their views. Children under the age of five years will also be appointed a legal representative, but may not be interviewed. The Judge of the Youth Court may choose to interview the child or appoint a legal representative for the children subject to the case at hand.

Adoption Services also provides opportunities for children to express their views about a proposed adoption. This can occur in an age and developmentally-appropriate way whilst a child is placed with the prospective adoptive parents prior to an order being made.

Where a child is over the age of 12 years, the child or young person's written consent is required in order for an adoption order to be made (section 16 of the Adoption Act, regulation 6 of the Adoption Regulations). Adoption Services will provide counselling and information to the child regarding the implications of the proposed adoption. Pursuant to section 18(2) of the Adoption Act the consent of a child may be dispensed where it appears to the Court that the child is intellectually incapable of giving consent.

Once counselling has occurred, an Adoption Services' social worker/supervisor completes the consent form for the child or young person to sign. A separate Adoptions Services' social worker/supervisor will witness the consent process.

4.12 Review of decisions

A person who is dissatisfied with a decision made by DCP in relation to a person's registration on the PAPR can apply to the South Australian Civil and Administrative Tribunal for a review of the decision. This includes decisions relating to:

- inviting a person to apply to be on the register
- whether a person is suitable person to be registered on the PAPR
- renewal of registration
- cancellation of registration.

4.13 Discharging an adoption order

Pursuant to section 14 of the Adoption Act an adopted person, their birth or adoptive parents or the Chief Executive, DCP, can apply to the Youth Court for an order discharging an adoption order. The Court can direct DCP to carry out an investigation into the circumstances relating to the discharge application.

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

4.14 Fees for the adoption process

Fees for the adoption process are charged in accordance with the annual fees notice. The fees are published in the Government gazette and on the DCP website.

DCP charges fees in relation to:

- lodging an expression of interest
- applying for registration as a prospective adoptive parent (including participation in workshops)
- preparation of an assessment report
- selection of an applicant for an adoption order.

Separate fees apply for the first and subsequent applications, and for transfers and conversions of registration.

Under regulation 24A, the Chief Executive, DCP, can agree to waive fees or accept payment by instalment.

4.15 Financial support

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 approved by the Chief Executive.

5. Compliance, monitoring and evaluation

Compliance with this policy is monitored by the Executive Director responsible for Adoption Services.

6. Related documents

Related documents, forms and templates
Notification of the death of a party to an adoption Procedure
Adoption of an Aboriginal or Torres Strait Islander Person: Procedure for Consulting with a Recognised Organisation
Adult Adoption information brochure
Local adoption - four stage process booklet
Adopting a South Australian-born child brochure
Considering adoption brochure
Birth Parents' Consent
Child's consent to be adopted
Adoption assessment report for local and intercountry adoption
Adoption Services: Processing local and intercountry adoptions Procedure

Document control

Reference No./ File No.			
Document Owner		Lead Writer	
Directorate/Unit: Adoption Services		Senior Project Officer, Strategic Partnerships Strategy Partnerships and Reform	
Accountable Director Executive Director, Out of Home Care			
Commencement date	21 March 2023	Review date	December 2025
Risk rating	Consequence Rating	Likelihood	Risk Rating
Risk Assessment Matrix	Minor	Unlikely	Low

REVISION RECORD		
Approval Date	Version	Revision description
02 December 2022	1.0	Final

ⁱ 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.