

Notification of the death of a party to an adoption Procedure

1. Purpose

This procedure details the process the Department for Child Protection (DCP) will undertake to notify persons specified under section 40A of the *Adoption Act 1988* (the Act) upon the death of a party to an adoption.

2. Scope

This procedure is to be followed by DCP Adoption Services staff and applies to the following people specified in the Act and referred to as 'party/parties' throughout this procedure:

- adopted person
- adopted person's birth parents
- each person who would have been a sibling of the adopted person (whether whole or half) if the adoption order had not been made.

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

- Sections 26A, 27B and 40A of the [Adoption Act 1988](#)
- [Freedom of Information Act 1991](#)
- [State Records Act 1997](#)

Section 40A of the *Adoption Act 1988* stipulates:

1. If the Chief Executive is informed by the Registrar that an adopted person has died, the Chief Executive must, if the Chief Executive considers it appropriate to do so, take reasonable steps to inform—
 - a. the adopted person's birth parents of the death; and
 - b. each person who would have been a sibling of the adopted person (whether of the whole or half-blood) if the adoption order had not been made.
2. If the Chief Executive receives information that a birth parent of an adopted person has died, the Chief Executive must, if the Chief Executive considers it appropriate to do so, take reasonable steps to inform the adopted person.
3. If the Chief Executive informs—
 - a. the birth parents of an adopted person of the adopted person's death; or
 - b. an adopted person of the death of a birth parent of the adopted person,

The fact that a direction lodged under section 27B by the deceased adopted person or birth parent (as the case may be) was in effect at the time of death does not prevent the Chief Executive from—

- c. in the case of a deceased adopted person—disclosing to the birth parents, information in the Chief Executive's possession relating to the adopted person; or
- d. in the case of a deceased birth parent—disclosing to the adopted person, information in the Chief Executive's possession relating to the birth parent.

The Chief Executive's responsibility to notify the relevant parties has been delegated to relevant DCP senior staff identified in section 40A [Delegation of powers and responsibilities under the Adoption Act 1988](#).

3.2 Whole of Government requirements

- [Code of Ethics for the South Australian Public Sector](#)
- [Information Sharing Guidelines for promoting safety and wellbeing](#)

3.3 DCP requirements

- [The DCP Practice Principles](#)
- [Information gathering and sharing chapter of the Manual of Practice](#)
- [Information Governance](#)

3.4 Principles

The Agency Access Agreement between the Registrar of Births, Deaths and Marriages (BDM) and DCP reflects the South Australian Government's commitment to ensuring that its agencies work collaboratively and in partnership to promote the best outcomes for parties to adoptions completed in South Australia.

If a birth parent or adopted person dies, other parties to the adoption often learn of the death after it has occurred, sometimes years later, which can be distressing. To assist with this, the *Adoptions Act 1988* (the *Adoptions Act*) requires the DCP delegate takes reasonable steps to inform the relevant parties of the death if determined appropriate to do so. DCP will consider the best interests, welfare and rights of the child or young person concerned to determine if notification is appropriate.

4. Procedure requirements

If an *adopted person* has died, section 40A(1) of the *Adoptions Act* requires DCP to inform the adopted person's birth parents and the adopted person's birth siblings of the death.

If a *birth parent* has died, section 40A(2) of the *Adoptions Act* requires DCP to inform the adopted person of the death.

In order for this to occur, the Registrar of BDM will regularly provide DCP Adoption Services with recorded deaths of birth parents and adopted persons.

4.1 Role of the Registrar, Birth, Death and Marriages

BDM do not receive notice of a death until after the death has been registered. DCP may receive information about the death of a party to an adoption from a source other than the Registrar of BDM. This must be confirmed by BDM in order to inform the relevant party/parties of the death.

BDM will not provide any information to Adoption Services related to the cause of death. If an adopted person and/or birth parent wants to know the cause of death, they must obtain authorisation from a Freedom of Information (FOI) officer to access their birth certificate for proof of relationship to the deceased party in order to make an application to BDM for a copy of a death certificate. This process does not apply to biological siblings of the deceased party, as they are unable to access a copy of the death certificate.

4.2 Receive and review notification

Notifications from BDM will be sent on a monthly basis in an email to Adoption Services via the DCP:AdoptionandFamilyInformationService mailbox.

The Senior Customer Services Officer (SCSO) will:

- review the notification, check if there have been any previous releases and check digitised microfiche records for information (the original file can be requested from DCP Information Governance if necessary)
- if a notification is received from any other source, liaise with BDM to confirm that the death has been notified and recorded with their agency (if there is no record of the death with BDM, no further action will be taken)
- review notifications and remove from the notification list those parties (adoptive parent/s and step-parent who has adopted a child or young person) who are not to be notified of a birth parent or adopted child or young person's death (section 40A of the Act identifies who is to be notified)
- enter the party's details into the Notification of the death of a party spreadsheet with information relevant to finding and notifying the party/parties of a death then notify the Supervisor, Adoption Services, who will review the information, determine if a notification should be made and prioritise the notification.

4.3 Determine whether parties will be notified

Once all the information has been reviewed, a determination will be made by the Supervisor, Adoption Services, as the Chief Executive's delegate, as to whether it is appropriate for the department to notify any of the parties. Factors including known mental health issues, whether any party has made a statement of wishes (statement setting out their wishes in relation to contact by another party of the adoption, section 27B of the *Adoptions Act*) that they do not want to be notified under any circumstances, or any other information that suggests a negative impact on a party's wellbeing will be considered. The Supervisor, Adoption Services will record the information on the Notification of the death of a party spreadsheet.

The Supervisor, Adoption Services will allocate the notification to a Senior Social Worker based on current team work allocations who will notify the party/parties of the death.

The Senior Social Worker will search DCP adoption records for the last known address of the child or young person and/or birth parent/s and send a letter to contact DCP Adoption Services.

If the letter is returned unclaimed, the SCSO will conduct a BDM and electoral roll search for details of female parties in relation to a change of name through marriage to assist in locating parties and understanding their circumstances.

The Senior Social Worker can contact the non-government organisation (NGO) Post Adoption Support Services (PASS) to determine if the party is an existing client receiving support. PASS will not provide specific information to Adoption Services but can confirm if the party is a current client or not.

If the party is a current client of PASS, they may provide a supported release response or send a letter to the party asking them to contact Adoption Services.

For determination of Aboriginal persons, consideration must be given to the cultural protocols around death and dying when making a decision whether to notify the family (refer to section 4.9.1 of this procedure for further guidance).

The rationale for the decision not to release information must be recorded on the Notification of the death of a party spreadsheet.

4.4 Notifying parties

When a decision to notify has been made, the allocated Senior Social Worker will send a letter to the parties notifying them that Adoption Services has family information they may be interested in receiving and to contact Adoption Services.

Cultural consultation must occur before any information is provided to ensure cultural protocols are followed (refer to sections 4.9.1 and 4.9.2 of this procedure for further guidance).

4.5 Adopted children and young people under 18 years of age

Where there is an active section 26A of the *Adoption Act* arrangement (all adoptions after 1988) for a child or young person under 18 years of age, the allocated Senior Social Worker responsible for monitoring the arrangement will notify the section 40A parties. If a birth parent has died, the adoptive parents will be notified and a plan to inform the child or young person will be developed.

All completed section 26A files are archived once the child or young person turns 18 years of age.

4.6 Adopted person over 18 years of age

Where there has been a past section 26A of the *Adoption Act* arrangement (all adoptions after 1988) for an adopted person over 18 years of age, the information will be assessed in accordance with the general process outlined in this procedure.

4.7 Children and young people adopted from an overseas country

Where Adoption Services is notified of the death of a child or young person adopted from an overseas country, the central authority of that country or the adoption agency (whichever is more appropriate) will be notified.

4.8 Informing and supporting parties

The parties may be individually invited by mail to attend the Adoption Services office to receive the information and obtain grief counselling and support as necessary, noting some parties may be remote or interstate, or do not wish to attend in person but via telephone. In this case, the party/parties will receive notification by telephone.

Where the party is living in a remote or rural community, and does not have access to a mail box or telephone, DCP staff or an Anangu Pitjantjatjara Yankunytjatjara (APY) Lands based worker (if the party is based in the APY Lands) will be asked to deliver the letter in person to ensure the party has received the notification to make contact with Adoption Services.

Referrals will be made to PASS for parties who have been offered and have accepted ongoing support and counselling.

If Adoption Services receives no contact by the party/parties within 90 days, the case will be closed and recorded on Adoption Family Information Service (AFIS) PRO. If the party/parties make contact after the 90 days, the case will be reopened.

4.9 Cultural consultation

4.9.1 Aboriginal consultation

If any of the section 40A parties identify as Aboriginal, the Principal Aboriginal Consultant (PAC) for Out of Home Care (OOHC) must be consulted prior to any contact being made.

When an Aboriginal person passes away, it is critical to seek advice from a PAC as to the most culturally safe and appropriate way to notify the family. It may be appropriate for a PAC to be present during meetings with family of the deceased. However, it is important to keep in mind that the family's wishes should be the paramount consideration.

Culturally appropriate notification must occur to enable the family to grieve the loss for the deceased person and ensure the necessary cultural protocols are followed.

It must be noted that Aboriginal cultures are not homogenous and therefore have different cultural practices. For example, for some Aboriginal cultures the name of the deceased must not be spoken out loud or written, as this is deemed culturally inappropriate, while others must have a smoking ceremony to help the spirit depart from this world into the next. Consideration needs to be given to respectful communication methods and how this impacts Sorry Business.

4.9.2 Culturally and linguistically diverse consultation

If any of the section 40A parties identify as being from a culturally and linguistically diverse (CALD) background, DCP Multicultural Services should be consulted prior to any contact being made. DCP Multicultural Services will provide cultural advice and assistance in relation to notifying parties and any other specific cultural considerations. [Interpreters](#) may need to be engaged to support facilitation of culturally appropriate communication.

4.10 Recording process

All information regarding the death of a party must be recorded on the Notification of the death of a party spreadsheet. The decision on whether to notify a party or not to notify must also be recorded on the spreadsheet. In addition, the following information must also be recorded:

- for active section 26A arrangements (where the adoptee is under 18 years of age), the notification of the death of a party and all information must be recorded on the section 26A file.
- where Adoption Services has received a notification of a death of a party, this must be updated on the electronic master card on the S drive.
- where there is a previous application for information, the notification of the death of a party must be recorded on AFIS PRO.

5. Compliance, monitoring and evaluation

The following data must be recorded to ensure compliance with the reporting requirements of the Act and reported quarterly to the Executive Director, OOHC, and the Chief Executive, DCP:

- Annual number of notifications to DCP by BDM of the death of a party to an adoption and the category of the deceased (for example, birth parent; adopted person).
- Annual number of notifications of a death of a party made to Adoption Services by an individual or agency other than BDM, the category of that individual or agency, and the category of the deceased (for example, birth parent; adopted person).
- Annual number of decisions to inform the other party/parties, and the category of party to be informed.
- Annual number of decisions not to notify.
- Annual number of successful notifications made to parties to an adoption and the category of the party/parties informed.

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.

6. Related documents

Related documents, forms and templates

[Fact Sheet- Adoptions Act 1988 Guide to delegations](#)

7. Glossary

Term	Meaning
AFIS PRO	Adoption Family Information Service PRO is the electronic record keeping system used by Adoption Services.
BDM	Births, Deaths and Marriages
CALD	Culturally and linguistically diverse background
SCSO	Senior Customer Services Officer
FOI	Freedom of Information
Master card (hard copy and electronic)	A master card holds basic information related to an adoption – name (pre and post adoption), DOB, adoptive parents' names, date and location of adoption.
NGO	Non-government organisation
PAC	Principal Aboriginal Consultant
PASS	Post Adoption Support Services



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