



Family &  
Community  
Services

## Mandatory Written Information on Adoption: Information for Parents of a Child in Out-of-Home Care



## Table of Contents

1. Introduction.....	1
2. What is adoption? .....	3
How is adoption arranged in NSW? .....	3
3. What is 'open' adoption? .....	4
4. The legal effects of adoption.....	5
Your child's birth certificate .....	5
Inheritance .....	6
Is adoption permanent? .....	6
5. Emotional effects of adoption .....	7
Short-term effects .....	7
Long-term effects .....	7
6. A child's identity needs .....	9
Children's experience of adoption.....	9
The child's wishes and consent .....	9
Identity – your child's name.....	9
Identity – your family history .....	10
Life story work – what does it include? .....	10
7. Adoption Plans .....	11
What is an Adoption Plan?.....	11
Who is involved in an Adoption Plan?.....	11
How is an Adoption Plan reviewed?.....	11
Registering an Adoption Plan .....	12
How will I be involved in developing an Adoption Plan? .....	12
8. Alternatives to adoption .....	13
What is a guardianship order? .....	13
Other orders the Supreme Court has the power to make .....	14
9. The out-of-home care adoption process.....	15
The legal process of adoption.....	15
10. Rights and responsibilities .....	17
Who do I talk to about adoption? .....	17
Fathers' rights .....	17
What if a mother doesn't want to identify a father? .....	17
What if my child is Aboriginal or Torres Strait Islander?.....	17
11. Legal process of giving consent to adoption.....	18
Who has to agree to adoption?.....	18
Can my child still be adopted if I don't give consent to their adoption? .....	18
What do I need to do to give consent to my child's adoption? .....	18
What if I am under the age of 18 years? .....	19
How do I revoke (withdraw) my consent? .....	20
What is my child's legal status if I revoke my consent? .....	21

12. Post adoption.....	22
What services are available after an adoption order? .....	22
What identifying information will my child and the adoptive parents know about me?.....	22
13. Conclusion.....	23
14. Contact list for Support Services .....	24
Adoption Service Providers.....	24
Funded Support Organisations .....	26
Legal advice.....	27
Financial Support Services .....	28
Support organisations: (members with personal experience of adoption).....	29
15. Suggested Readings .....	30

### **Attachments to be read with this document**

The following documents form part of the Mandatory Written Information

1. *Adoption Act 2000* (NSW) : How it affects you
2. Sample Instrument of Consent

## 1. Introduction

This booklet is for parents where adoption is being considered for their child and their child is currently:

- living with authorised (foster) carer(s) (in out-of-home care), or
- before the Children's Court and a decision needs to be made about their need for a permanent family.

Information is provided about what adoption is and how it compares to other permanent care options, as well as the process of adoption. Adoption has consequences for all involved and it is important that you as a parent understand what adoption might mean for you and your child.

Adoption is being considered for your child because:

- the possibility of restoration to birth family has been ruled out
- the possibility of your child living with any member of their birth family under a guardianship order or parental responsibility order has been ruled out
- either the Children's Court is considering a care plan which includes adoption as the long-term plan for your child, or
- your child has lived with and established a stable relationship with their authorised (foster) carers and their carers now wish to adopt your child.

The NSW law about adoption (the *Adoption Act 2000*) states that where a parent is required to give consent to their child's adoption, that the parent must be given the information in this booklet before they either give consent or decide not to give consent. If a parent is thinking about giving consent to their child's adoption, the parent *must* have the opportunity to read the information in this booklet and talk with an appropriately qualified person to ensure they understand the contents before they give their consent.

If you receive this booklet during proceedings about your child before the Children's Court and no decision has yet been made about whether adoption is the most appropriate permanent care option for your child, it is given to you for your information only. If a decision is made to pursue adoption at any time after the Children's Court has made its orders, you will receive a new booklet at that time so that you can consider whether or not you now wish to give consent to your child's adoption.

Certain words are used in this booklet to explain the people involved in adoption arrangements:

- 'the child' – is the person (of any age) who is going to be adopted
- 'parents' – are the parents who gave birth to the child
- 'birth family' – any member of the child's original family
- 'carers' – also known as foster carers. They are the people that have been authorised to care for your child
- 'adoptive parent(s)' – are the people who adopt the child

- 'adoptive family' – any member of the child's new family after adoption
- 'adopted person' – is a person who has been adopted
- 'parties to the adoption' – are the people involved in the adoption
  - the child who is being adopted
  - the parents who
    - have given consent to the child's adoption, or
    - have not given consent to the child's adoption but have agreed to the Adoption Plan, therefore they will be treated as a party to the adoption for the purposes of the Adoption Plan
  - the adoptive parents
  - the Secretary for Family and Community Services and/or the Principal Officer of an accredited adoption service provider
- 'FACS' – is the New South Wales (NSW) Department of Family and Community Services.

You may request support from a worker (this may be your child's caseworker or an adoption assessor), to read through this booklet and have any questions answered.

## 2. What is Adoption?

The word **adopt** means 'to choose and accept as one's own'. Adoption is a legal process, where the legal rights and responsibilities for a child are transferred from the child's parents to the adoptive parent(s).

In New South Wales, adoptions are made legally binding by the Supreme Court.

Parents will always have a biological and emotional connection with their child, but after adoption, they stop being legally related to them. Although the legal relationship changes, it does not need to stop you from having a relationship or an ongoing connection with your child.

### **Following adoption the child will become a legal member of the adoptive family and:**

- they will be issued with a new (amended) birth certificate
- have the same rights and responsibilities as any other child in the adoptive family
- can take, and legally use, the adoptive family's last name
- will have an automatic right to inherit the property of the adoptive parents, just like any other children in the adoptive family
- their adoptive parents will be able to make all the parental decisions about the child's upbringing
- will no longer be under the parental responsibility of the Minister for FACS.

An adoption order is an order that is permanent and lasts for all of the child's life. An adoption order doesn't stop once the child is 18 years of age.

### **How is adoption arranged in NSW?**

If a child in NSW is to be adopted by a family to whom they are not related, this must be arranged by FACS' Adoption Services or an accredited adoption service provider.

The accredited adoption service providers in NSW are:

- Sydney Anglican Home Mission Society Council – Anglicare Adoption Services
- Australian Families for Children Inc (AFC)
- Barnardos Australia - Find-a-Family
- CatholicCare Adoption Services

See section 14 Contact list for support services for details of adoption service providers.

### **3. What is 'Open' Adoption?**

Adoption is now very different to the 'closed' adoptions that took place up until the mid 1980s, where the parents and child had no contact or information about each other. The parents and adoptive parents did not get to know each other and there was a general atmosphere of secrecy. The child was often not told they were adopted or given information about their family.

Openness refers to the way the child is supported to remain connected to their birth family and cultural heritage. This occurs with an open attitude as well as actions and is an integral part of adoption legislation and practice in NSW.

Open adoption recognises there is often a benefit for children when both their families (birth and adoptive) remain in contact with each other after an adoption order has been made. An open attitude refers to the acceptance of your child having more than one set of parents and family, the willingness of birth and adoptive families to know about each other, exchange information and to build relationships through direct contact with each other, where possible. An open attitude promoted by the adoptive parents allows your child to feel comfortable to talk about you, other members in their birth family, their cultural heritage and their thoughts and feelings about being adopted, through their growing years.

When adoption is being considered for a child in out-of-home care, contact may already be occurring between you and your child, and their carer(s). Contact can happen by letter or email exchange, face-to-face meetings, Skype, telephone or any other way that you all agree on. The form and frequency of contact is determined on an individual basis, with what is best for your child being the main focus.

Adoption service providers are committed to open adoption and make all efforts to ensure that adoptive parents have the same level of commitment. Adoptive parents are educated and assessed to ensure they have the capacity to support open adoption.

## **4. The legal effects of Adoption**

Adoption is the legal process which permanently transfers all the legal rights and responsibilities of being a parent from the child's parents and the Minister for Family and Community Services to the child's adoptive parent(s). The child becomes regarded in law as the child of the adoptive parents.

When an adoption application is made to the Supreme Court, the Court looks carefully at:

- the best interests of the child, both in childhood and later life
- the parents' views, whether or not they have given consent to their child's adoption, or evidence about why their consent is not required
- the suitability of the adoptive family
- the arrangements for the Adoption Plan
- the alternatives to adoption, and whether adoption is clearly preferable to any other order that can be made

If the Judge is satisfied with the above, s/he may proceed to make an adoption order. Once an order has been made, the adoptive parents will, from that time on, be the child's legal parents.

### **Your child's birth certificate**

When an adoption order has been made, the court instructs the NSW Registry of Births, Deaths and Marriages (the Registry) to issue your child a new (amended) birth certificate. This new birth certificate names the adoptive parents as your child's parents, as if your child was born to them. Your child's original birth certificate is kept at the Registry for future reference.

### **Can you access your child's amended birth certificate?**

Once an adoption order is made, you are able to apply for your child's amended birth certificate which will provide identifying information about the adoptive family. While your child is under 18 years, you must first obtain an 'Adoption Information Certificate' from FACS' Adoption Information Unit. FACS can only refuse supply of this information if it would pose a risk to the safety, welfare or well being of your child or their adoptive parents.

### **Who can access your child's original birth certificate?**

Your child should be provided by FACS or the adoption service provider who managed their adoption with a copy of their original birth certificate around the time of an adoption order. Your child and their adoptive parents are also able to obtain a copy of your child's original birth certificate at any time after the adoption, however, it will be marked 'not for official purposes'. Where your child is under 18 years they require the approval of their adoptive parents or the Minister for FACS.



You, as the parent can apply to the Registry at any time for a copy of your child's original birth certificate. Post adoption, the certificate you receive will be marked 'not for official purposes'.

### **Inheritance**

Following the making of an adoption order, your child has an automatic right to inherit from their adoptive parents (subject to any Will). Your child loses the automatic right of inheritance from you and members of your family, unless he or she is specifically named as a beneficiary of a Will (made before or after the adoption order). Once the adoption order has been made, you and your family members would have to alter your Wills to ensure your child's entitlement to inheritance.

### **Is adoption permanent?**

**Yes.** An adoption order is a final order and is very rarely able to be changed.

### **Discharge (cancelling) of adoption orders**

The only grounds for a formal application to the Supreme Court for discharge of an adoption order are if:

- there is evidence the adoption order or consent was obtained by fraud, duress or improper means, or
- there are exceptional reasons why the order should be discharged.

## **5. Emotional effects of Adoption**

### **Short-term effects**

Parents tell us that when their child has been adopted from out-of-home care, a number of issues can be raised for them. It can be a reminder that the decision about parenting their child was taken from them at some point in time and their child was placed in out-of-home care. Discussing adoption can remind them of this loss and take them back emotionally to that time. It can also remind the parent that they have lost the opportunity of parenting their child.

Many parents of a child who has been adopted have said that adoption brings a sense of finality which can be very distressing. Adoption can extinguish the last hope a parent may have that their child may come home.

There are practical issues that can also be emotionally distressing like coping with the fact that your child will have a new birth certificate and their last name is likely to be changed to that of their adoptive parents. You may feel concerned that wrong information has been given to your child about you during their time in care or through the adoption process.

### **Long-term effects**

You may always feel the loss of your child to some degree. Some parents have said that their physical and emotional health was affected and they needed to seek counselling or support.

Having ongoing contact through open adoption means that you will not have to wonder how your child is or what they look like, but it can also mean that you are often reminded that someone else has the day-to-day care of and responsibility for your child. Your connection with your child as the parent who gave birth to them can never be taken away, and it can be difficult for some to find ways to come to understand the fact that your child now has two sets of parents.

Contact with your child may bring with it a mixture of happiness and sadness. Your relationship with your child may be easier at some times than others, causing you to wonder whether you can continue with the contact. Your relationship with your child's adoptive parents may be difficult and you may also have feelings of resentment towards them for having the care of your child.

Being a parent who is not raising your child is often difficult. People in your life may not know how to acknowledge you as a parent and you may feel hurt and disappointed by the way they handle this. Special occasions like Mother's Day or your child's birthday can be hard. You may find there are some people you won't want to tell that your child has been adopted and you might find it difficult to think of yourself as being a parent.

Some parents have positive feelings about what adoption can provide for their child. Some parents may also choose to give consent to their child's adoption. This may be because they can see that their child is happy and well looked after. They may be

building a relationship with their child's adoptive parents and believe they are doing a good job raising their child. They may also be reassured that by adoption their child will remain permanently with that family and no longer remain in foster care.

Please refer to section 14 Contact list for support services for information on what supports might be available to you.

## **6. A child's identity needs**

### **Children's experience of adoption**

For children unable to be raised by their parents or family members, adoption has been shown overall to provide a successful alternative. There are studies that have shown that adopted children appear in general to do better than children in the out-of-home care system.

Nonetheless, adopted children, like you as their parent, can experience life-long effects from the adoption. Over their lifetime, a child will come to understand that they were born in one family and are growing up in another. Families today come in many different forms. When children are strongly attached to a secure and nurturing adoptive family, an adopted child will be better able to make sense of the additional issues that are associated with their adoption.

Adopted children need to have information about their birth family and hopefully will be able to have some form of ongoing contact with them as well. A child who is raised with openness and understanding will be less likely to struggle with feelings of grief or difference. An open adoption arrangement can assist a child to know who they are and why they were adopted. When children see their birth and adoptive families are accepting of each other, they are better supported to build relationships that will endure throughout their lifetime.

### **The child's wishes and consent**

Depending on how old your child is, there are different people who must agree to your child being adopted. See section 11 Legal process of giving consent to adoption for information on whose consent is required (needed).

Your child will have discussions with a worker, this may be their caseworker or an adoption assessor. They will have the opportunity to express their views about being adopted, in an age appropriate manner. Your child's views and needs must be given due consideration by the court.

If your child is aged 12 years or above, then their consent will be required to their adoption.

### **Identity – your child's name**

An important part of your child's identity is their name. Generally, after an adoption order is made, a child will retain their first names and take on the surname of their adoptive parents. Some children may add an extra middle name at the time of the adoption.

The Court will not change the name of your child if they are over the age of 12 years unless your child has consented to the change. Sometimes an older child may wish to continue using their original, middle and last name, or may choose to use a hyphenated surname.

## **Identity – your family history**

From the time a parent starts to consider adoption for their child or when a child enters out-of-home care, information is gathered about the parents and their birth family to pass on to the child. This 'life story' work should be kept up to date so the child has ongoing access through their growing years to information about their family and background.

When adoption is looked at for a child in out-of-home care, it provides an opportunity to make sure life story work is up to date and being shared appropriately with the child. It also allows for any gaps to be filled in.

### **Life story work – what does it include?**

Adopted children like to know about their parents' lives, what kind of family their parents grew up in, their education, employment, hobbies and interests. Interests, abilities and personality traits can be inherited. Other family characteristics help children to make sense of their background, like family cultural or religious practices.

You or members of your family can help by providing information. Sharing family stories and history is something really important that you and your family can do for your child. It provides a starting point for a child in developing their own identity.

You will be asked to give medical information about yourself and your family. This might include family health conditions that could be inherited, and anything that may have affected your child's health during pregnancy and birth. The medical information you give is also used to help identify your child's present and future medical and developmental needs.

Your family background, interests, rituals, religious and cultural practices are the things that make you unique. Your child will be interested to learn more about you and your family as he or she grows older and the information that you give will help them to do so.

## 7. Adoption Plans

### What is an Adoption Plan?

An 'Adoption Plan' may be part of the adoption application. An Adoption Plan is a written agreement about what things will be like after adoption and outlines some or all of the following areas:

- the name your child has requested to be known by should an adoption order be made
- how your child is going to learn about who they are and where they came from – things like their culture and religion
- the contact your child will have with you and any other important family members like sisters, brothers, grandparents, aunts or uncles. The Adoption Plan will say when you will meet, where, how often and who will be there
- what kinds of information you will receive about your child – things like important life events
- financial and any other support needed to make sure the Adoption Plan could be carried out.

If contact arrangements have been occurring for some time and are working well for you, your child and your child's carers, the same arrangements are likely to continue and will be reflected in the Adoption arrangements detailed in the plan.

### Who is involved in an Adoption Plan?

An Adoption Plan is a plan agreed to by two or more of the following people:

- child (for whom adoption is being proposed)
- parent(s) who have given consent to the child's adoption
- adoptive parent(s)
- Secretary of the Department of Family and Community Services (FACS)
- Principal Officer of an Adoption service provider.

A parent who has not given consent to the child's adoption can also be involved and agree to the Adoption Plan. If the parent signs the Adoption Plan this will help demonstrate their agreement to the plan.

### How is an Adoption Plan reviewed?

If an adoption occurs, and things change and contact arrangements are no longer meeting the needs of the child or your needs, any of the people involved in the Adoption Plan can seek the support of a post adoption service. See section 14 'Contact list for support services'.

It is important that you, your child and your child's adoptive parents try to talk about the things that aren't working so that you can all try to reach an agreement that best suits everyone's needs. If an agreement about changes cannot be made, any of the people involved in the Adoption Plan are able to apply to the Supreme Court for the

plan to be reviewed. If the Adoption Plan is registered at the time the adoption order is made then a non-consenting parent who has not agreed to the Adoption Plan may be able to enforce the Adoption Plan as if they had previously agreed to the plan.

### **Registering an Adoption Plan**

Adoption Plans can be registered by the Supreme Court if those involved, who have agreed to the Adoption Plan, request this. If the Adoption Plan is registered it becomes part of the adoption order, meaning it is a legal order and everyone needs to obey the arrangements agreed to in the Adoption Plan.

Should an adoption order be made, a registered Adoption Plan that you have signed gives you more certainty to ensure contact and information exchange continues through your child's growing years.

### **How will I be involved in developing an Adoption Plan?**

Even where you are not able or willing to give consent to your child's adoption, you are encouraged to, participate in the development of, and agree to the Adoption Plan.

It is important to understand that agreeing to an Adoption Plan means you agree to the arrangements in the plan about staying in touch after an adoption.

Agreeing to the arrangements in the Adoption Plan **does not** mean you agree to or give consent to the adoption of your child.

## 8. Alternatives to Adoption

When adoption is considered for a child in out-of-home care, as part of the assessment, all options regarding the care of the child must be explored. Section 90(3), *Adoption Act 2000* states, *'The court may not make an adoption order unless it considers that the making of the order would be clearly preferable [and] in the best interests of the child than any other action that could be taken by law in relation to the care of the child'*.

The alternative forms of care that are generally considered for a child in out-of-home care are:

- a guardianship order giving parental responsibility to your child's carers to make **all** decisions about your child
- a parental responsibility order that gives only some aspects of parental responsibility to your child's carer(s) with the remaining aspects either given to or shared with someone else (including the Minister for FACS)
- an order for things to stay the same as they are now which means your child remains in long term out-of-home care under the parental responsibility of the Minister for FACS.

These options may not provide a child with life long permanency or with a sense of belonging to a family and does not provide a child with legal security in the way that adoption does. Adoption will be progressed for your child where it is decided that these other options are not preferable.

### What is a guardianship order?

A guardianship order is an order made by the Children's Court that gives full parental responsibility to your child's carer(s) until your child reaches 18 years of age. If parental responsibility was previously held by the Minister for FACS, that parental responsibility ends once a guardianship order is made.

A guardianship order granting full parental responsibility to your child's carer(s):

- removes all ongoing case management provided by FACS or the non-government out-of-home care agency, which means all decisions concerning your child will be made by their carer(s).
- does not change your child's birth certificate therefore legal ties to you and your child's other parent, their siblings and other birth family members remain unchanged. A guardian may however apply to the Registry of Births, Deaths and Marriage to change the child's name after a guardianship order is made, unless this is in conflict to a specific order of the Court.
- ensures a cultural support plan is developed to assist your child to maintain their cultural identity and a connection and sense of belonging to you and other family members, their community and culture. This also looks at their participation in cultural activities and events and how they will be provided with the opportunity to access services and supports within their cultural background.



- is not a permanent order therefore an application to change the order can be made to the Children's Court any time up until your child turns 18 years, if there has been a significant change in circumstances since the guardianship order was made.

If a guardianship order is being considered for your child, you will be encouraged to participate in a case meeting held by FACS or the agency with case management responsibility. A child over the age of 12 years must give consent to the making of a guardianship order.

An assessment of your child's carer(s) must ensure that the placement is stable and self sustaining and that your child's carer(s) have the capacity to make decisions and to provide for your child's ongoing health, education, contact with you and family members, cultural identity and general welfare without the need of additional support. There is limited financial support provided by FACS while your child is under 18 years and no additional support after your child turns 18.

### **Other orders the Supreme Court has the power to make**

If the Supreme Court is not satisfied that the best interests of your child will be promoted by adoption the Court has the power to make alternate orders in relation to the parental responsibility of your child.

Any order other than adoption may be changed up until your child turns 18 years if there has been a significant change in circumstances since the parental responsibility order was made.

## 9. The Out-of-Home Care Adoption process

### The legal process of adoption

The NSW law about adoption tells us that certain things need to be done and in a certain way for a child to be adopted.

Below is an overview of the out-of-home care adoption process including when important decisions are made.

- If a care plan goal of adoption was decided in the Children's Court, your child may have already been placed with carers who are approved adoptive applicants. Where your child is in long term foster care, adoption by these carers may be raised as a possibility during a case meeting.
- Casework is done to look at what your child understands about why they were born in one family and are now living in another and the contact that may be happening with family members. Written information about adoption and what it means (a document similar to this) is provided to your child and their carers.
- If it looks like adoption could be a good long term plan for your child, you will be asked your views on adoption and encouraged to participate in the process.
- An assessment will need to be completed by a worker (this may be your child's caseworker or an adoption assessor) to determine whether adoption by their carers is the best long term plan for your child. The worker will speak with you, your child, their carer(s) and any other significant family members. Part of this assessment is to develop an Adoption Plan.
- If adoption is recommended following the assessment, a manager on behalf of the Minister for FACS, will decide whether approval should be given to formally proceed with the adoption.
- Anyone who is required to give consent to your child's adoption will be asked to do this. Information on whose consent is required and the consent process is in section 11 Legal process of giving consent to adoption.
- A report is to be provided to the Court about the adoption proposal. You may speak with or meet again with a worker (this is usually the same person who completed the assessment) for your views to be included in the report.
- The worker will finalise the Adoption Plan which you will be asked to sign. Information on what is included in an Adoption Plan is in section 7 Adoption Plans.
- Legal documents will be prepared and an application for your child's adoption filed at the Supreme Court. You will be advised by way of a legal notice when this has been lodged with the court.

- If you want to oppose an adoption application, you are strongly encouraged to seek legal advice at the earliest opportunity. If you oppose an adoption application that is at the Supreme Court, and want to take legal action, you and your child's carers will be required to attend court to provide your views. Children do not usually attend Court. See section 14 'Contact List for Support Services' for details of legal support services that may be able to assist you.

### **Adoption Order Made**

When an adoption order is made, each of the parties is notified and provided with a copy of the Adoption Plan. The adoptive parents will also receive a copy of the adoption order. You can apply for a copy of the adoption order – for more details see booklet *Adoption Act 2000 How it Affects You: Post Adoption for Adoptions made after 1 January 2010*.

## **10. Rights and responsibilities**

### **Who do I talk to about adoption?**

It is important to talk with a worker, this may be your child's caseworker or an adoption assessor, about the proposal of your child's adoption by their carer(s). Even if you do not agree with the adoption, you are strongly encouraged to give your views and participate in the development of an Adoption Plan which details how you would keep a connection with your child should an adoption order be made.

### **Fathers' rights**

If you are a father and your name is not on your child's birth certificate, you still have rights and must be given an opportunity to give consent to the adoption. There is protection for your legal rights as a father in any adoption arrangement.

You must be given information about your child and the proposed adoption. You must have the opportunity to be notified of, and have the chance to support or oppose an adoption proceeding.

If you want to be involved in the adoption process, your child's caseworker will talk with you. If you clearly state that you are not the child's father then adoption arrangements may proceed without your involvement.

### **What if a mother doesn't want to identify a father?**

As a mother, you may be reluctant to disclose information about the father of your child for a number of reasons. You may be unsure about who the father of your child is or you may have difficulty talking about your relationship with him. You may want to ignore the father and the issue of his role with your child.

A lack of information about the father also means that your child will not have access to information about him or his family. As an adopted child gets older, they will ask questions about their father and social and medical information about both of their parents often becomes more important to them.

If you don't wish to have contact with the father, your child's caseworker can work with you both separately, helping you to work through issues as they arise.

### **What if my child is Aboriginal or Torres Strait Islander?**

It is acknowledged that adoption is not generally accepted within Aboriginal culture and is arranged in a different way in Torres Strait Islander communities. The law does however provide for an adoption to occur where it is in a child's best interests.

For more information please refer to:

- *Written Information on Adoption: Additional Information for Parents of an Aboriginal Child in Out-of-Home Care*
- *Written Information on Adoption: Additional Information for Parents of a Torres Strait Islander Child in Out-of-Home Care*

## **11. Legal process of giving consent to Adoption**

### **Who has to agree to adoption?**

Depending on how old your child is, there are different people who must agree to adoption. Agreeing to adoption is called giving consent.

- If your child is under 12 years both parents' consent to adoption is required. The Minister for FACS, and any other person who has parental responsibility for your child (through a Family or Children's Court order), also needs to give consent to adoption. The court must consider your child's wishes when deciding whether adoption is right for them.
- If your child is 12 years or more, capable of giving consent, and has lived with their carers for at least 2 years, the child's consent to adoption is the only consent needed.
- If your child is 12 years or more and not capable of giving consent, then both parents' consent to adoption is required. The Minister for FACS and any other person who has parental responsibility for your child also needs to give consent to adoption.

### **Can my child still be adopted if I don't give consent to their adoption?**

Yes, although adoption law states that every parent and anyone holding parental responsibility for a child must give consent to the child's adoption.

There are provisions in the *NSW Adoption Act 2000* which allow the Supreme Court to make a 'consent dispense order'. The Court may do this if it is satisfied that it is in the best interests of the child to do so. This means that an adoption order can be made without your consent.

The Court may decide to dispense with a parent's consent in any of the following situations:

- the mother or father cannot be found, or identified
- the mother or father are unable to give consent due to their physical or mental condition
- there is 'serious concern for the welfare of the child
- the child is in foster care and has a stable relationship with their carers and the adoption of the child by those carers will promote the child's welfare.

All reasonable efforts are made to give you and your child's other parent notice of the legal proceedings. You are able to seek legal advice and representation so that you can let the court know your views.

### **What do I need to do to give consent to my child's adoption?**

If you make a decision to give consent to your child's adoption, you would be provided with guidance to go through the steps involved in the consent process.

The following is what needs to occur:

- You must receive a copy of this 'Mandatory Written Information on Adoption' booklet at least 14 days before giving consent.
- You will need to see a registered (adoption) counsellor. They will make sure that you have been given this 'Mandatory Written Information on Adoption' booklet and must make sure that you understand the legal effect of adoption and both the short and long term emotional effects of adoption on you and your child.
- You can give consent 72 hours after receiving registered (adoption) counselling but no more than 30 days after.
- Consent is given when you sign a document which is called an 'Instrument of Consent'. There is a sample of the Instrument of Consent towards the back of this booklet.
- A suitably qualified person, who is separate and independent of the registered (adoption) counsellor and not the caseworker for your child's carers, must witness your consent.
- You will be given a copy of the Instrument of Consent you completed and signed and a written notice informing you of the date on which the 30 day revocation period ends. During these 30 days you may revoke (withdraw) your consent at any time.
- You will also receive a written reminder no less than 7 days prior to the end of the revocation period.

If your child is Aboriginal or Torres Strait Islander you will also be asked to speak with a suitably qualified Aboriginal or Torres Strait Islander worker about how adoption is seen within these cultures, and the other options (alternatives) to adoption. If you do not want to speak with an Aboriginal or Torres Strait Islander worker, you will be given the 'Written Information on Adoption: Additional Information for Parents of an Aboriginal / Torres Strait Islander Child in out-of-home care'. You will then be asked to sign a document that confirms you did not speak with an Aboriginal or Torres Strait Islander worker but have read and understood the written information given to you.

As your child is under the parental responsibility of the Minister, the responsibility for making decisions still stays with the Minister even after you give your consent to their adoption.

### **What if I am under the age of 18 years?**

There is no 'minimum age' for a parent to give consent, but if you are under the age of 18 years, you must receive independent legal advice concerning the effect of adoption, before giving consent. See section 14 Contact List for Support Services for details of legal services.

Your parents (your child's grandparents) do not need to give consent to the adoption, however it is important that you discuss your decision with them, if this is possible.

In addition to receiving legal advice, if you are under the age of 18 years, the Registered (Adoption) Counsellor needs to prepare a report stating you are capable of understanding the legal and emotional effects of signing the adoption consent document.

### **How do I revoke (withdraw) my consent?**

There is a period of 30 days, commencing on the day after you give consent to your child's adoption, during which you have an absolute right to revoke (or take back) your consent to adoption.

You will receive a 'revocation notice' at the time of signing consent. You will also receive a written reminder no less than 7 days prior to the end of the revocation period. If you change your mind and want to revoke your consent, you must inform the court by filling out the revocation notice. The address of the Supreme Court is:

The Registrar in Equity (Adoption Clerk)  
Supreme Court of NSW  
Queens Square  
Sydney, NSW 2000

You are able to take the revocation notice to the Supreme Court yourself, send it by ordinary mail or by courier. The revocation notice, which must be in writing, must reach the Supreme Court by 5pm no later than the 30th day after signing. If the end of the revocation period falls on a weekend or public holiday, then the 30th day is taken to be the next business day.

Do not worry if you have lost or misplaced the revocation notice. You are able to write a letter stating clearly, 'I wish to revoke my consent to the adoption of my child' with the following details:

- the name of your child
- your child's date and place of birth
- your name, address, phone number
- the date you gave consent to adoption
- the adoption service you are in contact with
- sign and date your letter before sending it to the court.

If you are worried about how to revoke your consent, you can ask for help from your child's caseworker, your local FACS office, your adoption service provider, a Legal Aid officer or the adoptions clerk at the Supreme Court.

As your child is in out-of-home care and if it has been decided that adoption is in their best interests, the adoption application generally would still be lodged with the Supreme Court even if you revoke your consent. The Court however would then need to dispense with your consent for an adoption order to be made.

**What is my child's legal status if I revoke my consent?**

As your child is under the parental responsibility of the Minister for FACS, the responsibility for making decisions still stays with the Minister even if you revoke your consent to their adoption.



## 12. Post Adoption

### **What services are available after an adoption order?**

After an adoption order, ongoing support can be provided to you, your child and their adoptive family by FACS' Adoption Information Unit or your adoption service provider.

For information and contact details of other post adoption services see section 14 Contact List of Support Services.

### **What identifying information will my child and the adoptive parents know about me?**

Identifying information refers to things like your surname and your address.

Adoption service providers observe the provisions of the below NSW legislation about how information is managed:

- *Adoption Act 2000*
- *Adoption Regulation 2015*
- *Children and Young Persons (Care and Protection) Act 1998*
- *Privacy and Personal Information Protection Act 1998.*

After an adoption order is made your child's adoptive parents will be given a copy of the adoption order and the child's original birth certificate which has your name and may have your address at the time of the child's birth.

If you have any concerns about what information about you will be passed on you should ask for:

- an explanation about why information is needed
- how the information you provide will be used, stored and passed on
- how you may have access to amend or update the information.

More information about this and your rights to information can be found in the booklet, *Adoption Act 2000 How it Affects You: Post Adoption for Adoptions made after 1 January 2010.*

### **13. Conclusion**

It is hoped that this booklet has answered the questions that you have about adoption where your child is in out-of-home care and its possible impact on you and your child.

Everyone's situation and support needs are unique and there are a range of services to ensure that you are given clear information and useful support before you make this very important decision.

If you are unsure about any of the information given here, you are encouraged to approach any of the services listed in section 14 under the heading 'Contact list for support services' to discuss your situation in detail.

## 14. Contact list for Support Services

### Adoption Service Providers

- **Family & Community Services - Adoption Services**

FACS Adoption Services provide a state-wide adoption service, working with FACS local offices in NSW metropolitan and country centres, including services for local, special needs, intercountry and intrafamily and out-of-home care adoptions.

Street address: 4–6 Cavill Avenue, Ashfield NSW 2131  
Postal address: Locked Bag 4028, Ashfield NSW 2131  
Phone: (02) 9716 3003  
Fax: (02) 9716 3001  
Email: [Adoption.PermanentCare@facs.nsw.gov.au](mailto:Adoption.PermanentCare@facs.nsw.gov.au)  
Website: [Family and Community Services](#)

- **Family & Community Services - Adoption Information Unit (AIU)**

FACS Adoption Information Unit provides post adoption services for all parties to an adoption that occurred in NSW

Street address: 4–6 Cavill Avenue, Ashfield NSW 2131  
Postal address: Locked Bag 4028, Ashfield NSW 2131  
Phone: 1300 799 023 (rural NSW and ACT)  
Fax: (02) 9716 3400  
Email: [adoption.information@facs.nsw.gov.au](mailto:adoption.information@facs.nsw.gov.au)  
Website: [Adoption Information Unit](#)

- **Sydney Anglican Home Mission Society Council**

Anglicare Adoption Services

Anglicare provides adoption services to: parents considering adoption for their baby or young child; to children with specific needs who need adoption or permanent care, to prospective adoptive parents, and post adoption services for families whose adoptions they have arranged. Parents and adoptive parents must live within a 200km radius of Sydney.

Street address: 19A Gibbons Street, Telopea NSW 2117  
Phone: (02) 9890 6855  
Fax: (02) 9890 3700  
Email: [adoption@anglicare.org.au](mailto:adoption@anglicare.org.au)  
Website: [Anglicare](#)

## **Anglicare Foster Care Program**

Where appropriate, Anglicare facilitates the adoption of children who are in permanent foster care placements. There will be occasions where dual authorisation of carers to be approved foster carers and adoptive parents will occur, and children with adoption in their case plan will be placed with these dually authorised carers. Anglicare Sydney's Foster Care program operates in the Sydney metropolitan area.

Street address: 19A Gibbons Street, Telopea NSW 2117  
Phone: (02) 9890 6800  
Fax: (02) 9890 3700  
Email: [teloopa1@anglicare.org.au](mailto:teloopa1@anglicare.org.au)

- **Australian Families for Children (AFC)**

Australian Families for Children Inc. (AFC) is a not-for-profit incorporated association founded in 1980. The organisation was accredited to facilitate domestic adoptions and intercountry adoptions, in 2015. AFC is committed to helping children who are unable to live with their birth family, to find a permanent home with an approved, suitable adoptive family. AFC provides adoption services to parents considering adoption for their child(ren) in need of an adoption placement and prospective adoptive parents. AFC also provides post adoption services to all parties in an adoption.

Street Address: Level 2 Suite 2A, 79 Oxford Street, Bondi Junction, NSW 2022  
Postal Address: PO Box 7420 Bondi Beach NSW 2026  
Phone: (02) 9389 1889  
Fax: (02) 9369 5969  
E Mail: [info@australiansadopt.org](mailto:info@australiansadopt.org)  
Website: [Australian Families for Children](http://www.australiansadopt.org)

- **Barnardos Australia - Find-a-Family**

Barnardos specialises in the adoption or permanent placement of children under the Parental Responsibility of the Minister from 0–12 years, including sibling groups. If required, Barnardos may provide some post adoption support or be able to assist families to seek other appropriate services. Barnardos provides services in the Sydney Metropolitan, Hunter / Central Coast and Illawarra areas.

Street address: Level 1, 2–4 Holden Street, Ashfield NSW 2131  
Postal address: PO Box 455, Ashfield NSW 2131  
Phone: (02) 8596 5000  
Fax: (02) 9797 0108  
Website: [Barnardos Australia](http://www.barnardos.org.au)

- **CatholicCare Adoption Services**

CatholicCare provides adoption services to parents considering adoption, to babies and children needing adoption or a permanent care placement, and to prospective adoptive parents. CatholicCare facilitates out-of-home care adoptions for children and their carers. CatholicCare provides a state-wide service conducted from Sydney utilising a network of counsellors who are closely supervised by experienced adoption workers.

Address: Level 2, 8 Jacobs Street, Bankstown NSW 2200  
Postal address: PO Box 3127, Bankstown Central NSW 2200  
Phone: (02) 8700 3333  
Fax: (02) 8700 3390  
Email: [adoptions@catholiccare.org](mailto:adoptions@catholiccare.org)  
Website: [CatholicCare](http://CatholicCare)

### **Funded Support Organisations**

- **Post Adoption Resource Centre (PARC)**

PARC provides information, counselling and support to people affected by adoption. PARC also has a bookshop and library on this site with a range of information on adoption.

Street address: Level 5, 7–11 The Avenue, Hurstville NSW 2220  
Phone: (02) 9504 6788 or 1300 659 814  
Email: [parc@benevolent.org.au](mailto:parc@benevolent.org.au)  
Website: [Post Adoption Resource Centre](http://Post Adoption Resource Centre)

- **Relationships Australia**

Relationships Australia provide counselling services for families experiencing problems with marital relationships, separation and divorce, and parenting children in blended families.

NSW Head Office: Suite 102, 68 Waterloo Road  
MACQUARIE PARK NSW 2113  
Phone: (02) 8874 8000 or 1300 364 277  
Fax: (02) 9887 2809  
Website: [Relationships Australia](http://Relationships Australia)

## Legal advice

- **The Law Society of NSW, Community Assistance Department: Solicitor Referral Service**

This service can refer callers to private law firms practising in a particular area of law in a location convenient to the caller, as well as to firms with solicitors or staff who speak community languages. The service also refers callers to a wide range of government and non-government agencies that can provide free information or help.

Street address: 170 Phillip Street, Sydney NSW 2000

Phone: (02) 9926 0333

Website: [The Law Society of NSW](#)

- **Law Access**

Law Access is a telephone based legal information and referral service.

Phone: 1300 888 529

Website: [LawAccess NSW](#)

- **Legal Aid NSW**

The Legal Aid Commission provides a free legal advice service at all Legal Aid offices. Legal representation is available in most areas of the law subject to a means and merit test. Appointments must be made for advice.

Street address: Branch offices are located around the state

Phone: 1300 888 529

Website: [Legal Aid NSW](#)

- **Chamber Magistrates**

Chamber Magistrates are usually located in local courts, and can sometimes provide free legal advice, or help you understand legal forms. Opening hours and the need to make appointments vary from court to court.

- **Community Justice Centres**

Community Justice Centres provide free mediation services to the community to help people resolve their own disputes. The service is free and confidential. Matters suitable for mediation are family and neighbour disputes, some workplace disputes and financial disputes.

Street address: Level 5, Parramatta Justice Precinct,  
160 Marsden Street,  
PARRAMATTA 2150

Postal address: Locked Bag 5111, Parramatta 2124

Phone: (02) 8688 7455 or 1800 990 777 (for general enquiries)

Fax: (02) 8688 9615

Email: [cjc\\_info@agd.nsw.gov.au](mailto:cjc_info@agd.nsw.gov.au)

Website: [Community Justice Centres](#)

- **Family Court of Australia**

The Family Court provides a confidential counselling service for parents who are separating or divorced and who have made application to the court regarding arrangements for their children in relation to residence, contact or other specific issues.

Street address: Level 2, 97–99 Goulburn Street, Sydney NSW 2000  
National Enquiry Centre Phone: 1300 352 000  
Email: [enquiries@familylawcourts.gov.au](mailto:enquiries@familylawcourts.gov.au)  
Website: [Family Court of Australia](#)

- **Intellectual Disability Rights Service**

This service is involved with the rights of people with intellectual disabilities. It provides legal advice, education, resources and publications to those with a disability, their family, carers and friends. It also assists solicitors working with people with an intellectual disability. Interviews are by appointment.

Street address: 2C, 199 Regent Street, Redfern NSW 2016  
Phone: (02) 9318 0144 or 1800 666 611  
Email: [info@idrs.org.au](mailto:info@idrs.org.au)  
Website: [Intellectual Disability Rights Service](#)

### **Financial Support Services**

- **Centrelink**

Centrelink delivers a range of payments and services for people at times of major change. Contact Centrelink to enquire about what payments and services you may be entitled to.

Postal address: Reply Paid 7800, Canberra BC ACT 2610  
Phone: 132 468  
Fax: 1300 786 102  
Website: [CentreLink](#)

## **Support organisations: (members with personal experience of adoption)**

- **Adoption & Permanent Care Association of NSW**

If you want to talk with an adoptive parent about a particular issue, this support group for adoptive parents welcomes telephone enquiries.

Postal address: PO Box 629, Ryde NSW 1680  
Phone: (02) 8091 5157  
Email: [info@apansw.org.au](mailto:info@apansw.org.au)  
Website: [Adoption and Permanent Care Association of NSW](#)

- **Origins Australia**

A self-help organisation supporting people separated by adoption.

Street address: Unit 2 113–115 The Crescent, Fairfield NSW 2165  
Postal address: PO Box W18, Fairfield West NSW 2165  
Phone: (02) 9725 7723  
Email: [lilya@originsnsw.com](mailto:lilya@originsnsw.com)  
Website: [Origins Australia](#)

- **Parramatta Holroyd Adoption Self-Help Group**

A post adoption support meeting takes place on the first Wednesday evening of the month from 6:30–8:30pm. Please phone before attending a meeting. This group is offered to all who have been affected by the adoption experience.

Street address: 37 Collins Street, Pendle Hill NSW 2145  
Phone: (02) 9636 8437  
Email: [admin@phfs.org.au](mailto:admin@phfs.org.au)



## 15. Suggested Readings

### **Adoption and Loss: The Hidden Grief**

*Evelyn Burns Robinson, Clova Publications 2000.*

A birthmother talks of her personal experience of adoption and loss as well as looking at the effects on other members of the triangle.

### **Birthmothers**

*Merry Bloch Jones. Chicago Review Press, 1993.*

A comprehensive study of the impact of adoption on birth mothers' lives.

### **Lost and Found: The Adoption Experience**

*Betty Jean Lifton. New York, Harper & Rowe 1988.*

Explores the range of issues faced by adopted persons, birth and adoptive parents while considering the search process and the benefits of openness in their adoption experience.

### **Out of the Shadows**

*Mary Martin Mason. O. J. Howard Publishing, Edina, Minnesota, USA, 1995*

Seventeen US birth fathers with contrasting stories are interviewed by Mason, who is both an adopted person and an adoptive parent. One of the world's few books dealing with birth fathers' experiences and feelings.

### **The Primal Wound**

*Nancy Verrier*

### **The Open Adoption Experience**

*Lois Melina, Harper Collins Publishers, New York, 1993*

A complete guide for adoptive and birth families – from making the decision through the child's growing years.

### **Reflections: Birthparents Stories**

*Ed: Centacare Adoption Services, Sydney, 2002*

The experience of adoption explained in their own words, by parents who have arranged adoption for their child in the recent past.

### **The Colour of Difference**

*Ed: Sarah Armstrong and Petrina Slaytor, Sydney, 2001*

This book looks at the issue of trans-racial adoption from the perspective of 27 adult adoptees. It has accounts of adoptees who were born in Australia (9) and from inter-country (18) and their experience of being adopted trans-racially in Australia.

### **Releasing the past: Mothers' stories of their stolen babies**

*Ed: Christine A Cole, Sydney, 2008*

Adoption Act 2000: how it affects you

POST ADOPTION

for adoptions made after 1 January 2010

# Contents

Open access to adoption information.....	2
Available information .....	3
For adopted persons or adoptive parents .....	4
For birth parents .....	6
For non-adopted siblings of adopted persons .....	7
For relatives of adopted persons .....	8
For relatives of deceased adopted persons or birth parents .....	9
Your rights as a person with disability .....	9
Reunion and Information Register .....	9
Contact and reviewing an adoption plan.....	10
Referring to adoption in the media .....	11
Fees for adoption information.....	11
Contacts.....	11
Family and Community Services (FACS) .....	11
Other adoption agencies.....	11
Support services .....	12
NSW Registry of Births, Deaths & Marriages.....	13

# Open access to adoption information

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For adoptions made in NSW after 1 January 2010, the *Adoption Act 2000* (the Act) allows adopted people, adoptive parents, birth parents and siblings of an adopted person to gain information about each other from the day the adoption order is made.

To make it clear for all involved with an adoption, the terms birth parent(s), adoptive parent(s) and adopted person/people will be used in this document.

## **Open access to adoption information benefits everyone**

The benefits of open access include:

- adopted people having a greater understanding of their birth family heritage, identity and culture from an early age
- birth parents and siblings can know about adopted people during their growing years
- birth parents, adopted people and birth siblings of adopted people are able to find, and have contact with, each other and form relationships
- Adopted people benefit from having meetings and/or information about their birth parents and siblings throughout the adopted persons' growing years. This also assists adoptive parents to help their adopted child deal with questions about their identity.

## **Challenges of open access**

The challenges of open access can include:

- Birth parents may be contacted by the adopted person in the future. This is why birth parents need to think about telling their family members about an adoption from the very beginning. If family members learn about the adoption later, experience shows that they can be very upset. Birth parents may want to keep their privacy and may choose not to have ongoing contact. They may also choose not to receive information about their child who was adopted. This can be difficult for adoptive parents to deal with, especially if their child wants to have contact.
- In these situations, most adopted people and adoptive parents are respectful of birth parents' wishes. However, as time goes on, many adopted people have questions that their adoptive parents cannot answer. They may also need updated birth family medical information. Some adoptive parents worry about unplanned contact. However, experience shows that not many birth parents make their own contact with an adopted person or adoptive family outside the agreed arrangements in an adoption plan.

## Available information

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The Act and the *Adoption Regulation 2015* detail the prescribed information that can be obtained about people involved in an adoption. Prescribed information is also referred to as social and medical information.

Non-identifying background information about a person involved in an adoption can include their:

- physical and intellectual attributes
- educational and vocational qualifications
- social and cultural background
- health (medical reports) and welfare
- family and other relationships
- religious beliefs
- hobbies and interests.

Identifying information about a person involved in an adoption can include their:

- name
- date of birth
- address at the time the adoption was arranged

Documents that contain identifying information about an adopted person are:

- original birth certificate – which includes the names and possible addresses of the birth parents and the adopted person's name at the time of their birth
- amended birth certificate – which includes the names and possible addresses of adoptive parents and the adopted person's name after the adoption
- birth record and adoption order – which have the adopted person's pre- and post-adoptive names and the names of all of the people involved in the adoption.

Other identifying information is available from the NSW Registry of Birth, Deaths & Marriages (for example, details from birth, marriage or death certificates, if registered in NSW) which can help people search for each other.

## **For adopted people or adoptive parents**

### **Information available when an adopted person is *under 18 years***

At the time of an adoption, adoptive parents can receive a copy of the adoption order which contains identifying information about all the people involved in the adoption.

Adopted people can also have a copy of the adoption order (with the consent of their adoptive parent/s or the Secretary of the Department of Family and Community Services (FACS)).

Adoptive parents and adopted people (with the consent of their adoptive parents or the Secretary of FACS), can also obtain:

- non-identifying information that gives an adopted person or adoptive parent knowledge of the adopted person's birth family (parents, siblings, grandparents, aunts and uncles)
- the reason for the adoption decision
- any messages birth parents may have left for an adopted person or adoptive parent
- any other document, report, photograph or record relating to the adopted person that contains information about his or her origins.

In addition, adopted people (with the consent of their adoptive parents or the Secretary of FACS) can obtain:

- a copy of the birth parent's consent to the adoption (if this was given)
- copies of medical reports about the adopted person prepared before the adoption order was made
- identifying and non identifying information about their birth siblings whether adopted or not
- information from a birth, marriage or death certificate of a birth parent which will help them search for members of their birth family.

Non-identifying information (if known) is usually provided to adoptive parents by FACS or the agency that arranged the adoption when an adopted person goes to live with them.

### **Information available about a sibling (adopted or non-adopted) when an adopted person is *under 18 years***

Adopted people (with the consent of their adoptive parents or the Secretary of FACS) can apply for identifying and non-identifying information about their siblings (with whom they have at least one birth parent in common) and search for them. This may include an adoption order made in relation to an adopted sibling.

Adopted people can also be given information about the adoptive parents of their adopted siblings, such as their:

- age
- nationality
- ethnic background
- occupation
- hobbies and interests
- religion
- composition of the adoptive family.

### **Information available when an adopted person is over 18 years**

Adopted people are entitled to receive identifying and non-identifying information about themselves, their birth parents and siblings, as above, and to search for them. The consent of adoptive parents or the Secretary of FACS is not required.

Adopted people's entitlement to identifying information about their birth father depends on the circumstances at the time of the adoption. If, at the time of the adoption, or since, the birth father is recorded on the adopted person's Original Birth Certificate (OBC), the adopted person is entitled to receive identifying information about him. Similarly, if the birth father can be presumed at law to be the father of the adopted child, the adopted person is entitled to identifying information about him. An adopted person is entitled to receive identifying information about the birth father in these circumstances, in the same way the adopted person is entitled to information about their birth mother.

If, however, a birth father is not recorded on the OBC, and cannot be presumed to be the father at law, but is recorded in the adoption file as the father at the time of the adoption, he is known as the 'putative birth father' rather than a 'birth parent'. This is because his paternity has not been formalised under the law. Many fathers believe they were named on the OBC because they were at the hospital at the time of the birth and/or provided support to the mother during the adoption process. However, fathers had to sign the birth registration form to be named on the OBC, not just be named by the mother at the time of the adoption.

In this circumstance, an adopted person is entitled to identifying information about the putative father which was provided to the adoption agency at the time of the adoption. An adopted person can conduct their own searches, however, cannot contact or arrange for someone else to contact the putative father or any of his relatives, except by using the intermediary services or an information source. An adopted person will have to agree to this in a written undertaking before being given the identifying information.

Information sources are:

Department of Family and Community Services, Adoption Information Unit (AIU)  
The Benevolent Society — Post Adoption Resource Centre (PARC)

Burnside

International Social Service Australia (ISS)

Link Up (NSW) Aboriginal Corporation

Relationships Australia — Forced Adoption Support Service

The Salvation Army - Special Search Service

Wesley Dalmar Child and Family Care

Catholic Care

Barnardos

Anglicare.

## **For birth parents**

### **Information available when an adopted person is *under 18 years***

#### **Information available with an Adoption Information Certificate**

Birth parents can apply to the Secretary of FACS for an authority known as an Adoption Information Certificate (AIC) to obtain identifying information about an adopted person and adoptive parents.

Before an AIC can be released, an assessment must be made to determine if the release of identifying information would pose any risk to the safety, welfare or wellbeing of the adopted person or the adoptive parents.

If any risks are identified, it is possible that an AIC will not be released.

The [Guidelines for the Release of Adoption Information](#) provide details about the assessment process and can be accessed on the FACS website [www.facs.nsw.gov.au](http://www.facs.nsw.gov.au) or call an Adoption Information Unit caseworker to request a copy.

If an AIC cannot be issued, an Adoption Information Unit caseworker will contact the birth parent to discuss their options.

When an AIC is issued, the birth parent can apply for further identifying and non-identifying information which will help them know about their child and to search for them.

#### **Information available without an Adoption Information Certificate**

At any time birth parents can ask FACS or the agency that organised the adoption for:

- non-identifying background information about an adopted person and adoptive parent/s



- copies of documents the birth parent may have completed at the time of an adoption, such as consent forms, social and medical history and the form that recorded any requests they made for the adopted person
- copies of the adopted person's medical reports completed prior to the adoption
- messages which may be left for the birth parent
- any other document, report, photograph or record relating to the adopted person that contains information about his or her origins
- current information about an adopted persons' health and welfare, educational progress, hobbies, sporting and other interests, and information about the general lifestyle of an adopted person and their adoptive parent/s.

Birth parents can ask to be informed if FACS or the agency that arranged the adoption becomes aware that the:

- adopted person has died
- adopted person's relationship with the adoptive parents has irretrievably broken down and the adopted person is living separately from the adoptive family.

### **Information available when the adopted person is *over 18 years***

When an adopted person reaches 18 years of age, birth parents can obtain identifying and non-identifying information about an adopted person and their adoptive parents, and search for them. An Adoption Information Certificate is not needed.

### **For non-adopted siblings of adopted persons**

A non-adopted sibling of an adopted person is a sibling who is not adopted and has at least one birth parent in common with an adopted person.

### **Information available when an adopted person is *under 18 years***

Non-adopted siblings can apply to the Secretary of FACS for an Adoption Information certificate (AIC) to obtain identifying and non-identifying information about an adopted sibling and their adoptive parents.

A non-adopted sibling under 18 years wishing to apply for any adoption information must have the consent of their parents or the Secretary of FACS if there are no surviving parents or they cannot be found, or there is other sufficient reason to dispense with their consent.

Before an AIC can be released, an assessment must be made to determine if the release of identifying information would pose any risk to the safety, welfare or wellbeing of the adopted person or adoptive parents. This means

that non-adopted siblings and birth parents will be asked to participate in an assessment of any potential risks.

If risks are identified, it is possible that an AIC will not be released.

The [Guidelines for the Release of Adoption Information](#) provide details about the assessment process and can be accessed on the FACS website [www.facs.nsw.gov.au](http://www.facs.nsw.gov.au)

If an AIC cannot be issued, an Adoption Information Unit caseworker will contact siblings to discuss their options.

When an AIC is issued, non-adopted siblings can apply for further identifying and non-identifying background information which will assist them to know about adopted siblings and to search for them.

### **When both a non-adopted sibling and an adopted person are over 18 years**

Non-adopted siblings of adopted persons can receive identifying and non-identifying background information about an adopted person and can also search for them. They do not require an AIC or consent when both are over 18 years.

### **For relatives of adopted people**

The Secretary of FACS has the discretion to issue an AIC to obtain identifying and non-identifying information to relatives or people without a direct right to information, where it is reasonable to do so.

An Adoption Information Certificate (AIC) for information on an adopted person under 18 years of age which could be used to identify birth parent(s) cannot be released to a relative without the consent of the birth parent(s). In this situation an Adoption Information Unit caseworker will seek consent from birth parents.

Before issuing an AIC, which will enable identifying and non-identifying background information to be gained about the adopted person, consideration will be given to the:

- circumstances surrounding a request for information
- age of the parties to the adoption
- relationship between the person requesting the information and the other people involved in the adoption
- likely effect on everyone involved in the adoption, if the information is released.

## **For relatives of deceased adopted people or birth parents**

If you are the relative, spouse, de-facto or another person who had a close relationship with a now deceased birth parent or adopted person, you can apply for an authority to gain access to some of the information that would have been available to them.

Contact the Adoption Information Unit by email:

[adoption.information@facs.nsw.gov.au](mailto:adoption.information@facs.nsw.gov.au) or telephone 1300 799 023 for more details.

## **Your rights as a person with disability**

People with disability are not disadvantaged in their right to apply for identifying information or social and medical information.

Another person with an interest in the matter can apply to the Guardianship Tribunal for:

- the Tribunal to consider whether the person (with entitlements under the Act) has a disability or a condition making it impossible or unreasonable for them to exercise their rights, and
- if this is so, to appoint someone to exercise the rights on behalf of the person with disability.

For more information, contact:

Guardianship Tribunal

2a Rowntree Street

Balmain NSW 2041

P: 02 9556 7600 or

1300 006 228

E: [gd@ncat.nsw.gov.au](mailto:gd@ncat.nsw.gov.au)

## **Reunion and Information Register**

The Reunion and Information Register (RIR) is available for people who want to be contacted but do not wish to search. An adopted person, adoptive parent, birth parent, or anyone else with an interest in an adoption (and in the opinion of the Secretary of FACS ought to have their name entered) is eligible to have their name entered on the RIR at any time. A message may be left and contact may be requested.

Adopted people are able to register their details on the register when:

- they reach 18 years of age
- they reach 12 years with the consent of their adoptive parents or the Secretary of FACS

- they reach 16 years and if they are living separately from their adoptive parents.

When there is a matching registration of two or more people on the register, an Adoption Information Unit caseworker will help them to make contact with each other.

## Contact and reviewing an adoption plan

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Contact allows adopted children and young people to maintain relationships with their families and other important people in their lives.

An adoption plan is an agreement between two or more people involved in the adoption and is formalised in writing by FACS. Usually made at the time of the adoption, an adoption plan is lodged in court with the adoption application.

An adoption plan can include things such as:

- arrangements to exchange information about the adopted person's medical background or condition and/or their development and important events in their life
- how contact will occur
- how the adopted person will be assisted to develop a healthy and positive cultural identity and foster links with their heritage
- certain financial and other assistance, if needed.

If contact occurs, the frequency of meetings should be based on what is realistic to manage and should be agreed to by everyone. Exchange of news and contact can begin with the support of an Adoption Information Unit caseworker and can progress to direct contact if everyone agrees.

Changes and regular events in both families, such as relocation, school, sports, activities or holidays, impact on how and when contact can occur.

Contact set out in an adoption plan may be re-negotiated over time. Changes can often be worked out informally between the families or with the assistance of an adoption information caseworker.

Being flexible and considering the needs of the adopted person and the changing needs of each family will make it easier for everyone to enjoy time spent together.

In the event that an agreement cannot be reached, the Court may be asked to review the adoption plan.

If you want more information on registration of adoption plans please go to [www.community.nsw.gov.au](http://www.community.nsw.gov.au) for the 'Registration of adoption plans factsheet'

## Referring to adoption in the media

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Only non-identifying information about people involved in an adoption can be discussed in the media after an adoption order is made, unless those people give permission to be identified.

## Fees for adoption information

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There are no fees for an adopted person to obtain information about their own adoption or for a birth parent to obtain information about their own child's adoption.

The following fees apply for individual services for other people having an interest in an adoption, for example relatives, siblings, relatives of deceased adopted people or birth parents, adoptive parents:

- Adoption Information Certificate (AIC) \$35
- social and medical information (prescribed information) \$50
- registration on the Reunion and Information Register (RIR) \$65

For further searches of the NSW Registry of Births, Deaths & Marriages records, and for additional certificates, you will need to pay the Registry's fees.

## Contacts

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### **Family and Community Services (FACS)**

#### **Adoption Information Unit**

Locked Bag 4028

Ashfield NSW 2131

P: 1300 799 023 (cost of local phone call anywhere in Australia)

F: 02 9716 3400

E: [adoption.information@facs.nsw.gov.au](mailto:adoption.information@facs.nsw.gov.au)

W: [www.facs.nsw.gov.au](http://www.facs.nsw.gov.au)

### **Other adoption agencies**

#### **Anglicare Adoption Services**

19a Gibbons Street

Telopea NSW 2117

P: 02 9890 6855

F: 02 9890 3700

E: [adoption@anglicare.org.au](mailto:adoption@anglicare.org.au)

W: [www.anglicare.org.au](http://www.anglicare.org.au)

**Australian Families for Children Inc**

Level 2, Suite 2A, 79 Oxford Street  
Bondi Junction NSW 2022

Postal:

P.O Box 7420

Bondi Beach

Sydney NSW 2026

P: 02 9389 1889

F: 02 9369 5969

E: [info@australiansadopt.org](mailto:info@australiansadopt.org)

**Barnardos Australia**

Find-a-Family Program

Level 4, 2-4 Holden Street

Ashfield NSW 2131

PO Box 455

Ashfield NSW 1800

P: 02 8596 5000

F: 02 9797 0108

W: [www.barnardos.org.au](http://www.barnardos.org.au)

**CatholicCare Adoption Services**

PO Box 3127

Bankstown Central NSW 2200

P: 02 8700 3333

F: 02 8700 3390

E: [adoptions@catholiccare.org](mailto:adoptions@catholiccare.org)

W: [www.catholiccare.org](http://www.catholiccare.org)

**Support services**

**Post Adoption Resource Centre (PARC)**

Suite 253, Level 5, 7-11 The Avenue

Hurstville NSW 2026

Locked Bag 6002, Hurstville NSW 1481

P: 02 9504 6788 or

Freecall: 1300 659 814 (regional NSW only)

E: [parc@benevolent.org.au](mailto:parc@benevolent.org.au)

W: [www.benevolent.org.au](http://www.benevolent.org.au)

PARC, under the auspice of The Benevolent Society, is funded by Family and Community Services to specifically offer services to people affected by the Adoption Act 2000. They provide services in NSW and the ACT that include:

- face-to-face counselling
- telephone counselling
- information sessions – information on searching, and other peoples' experiences of reunions
- intermediary / mediation services.

For a list of other support organisations see

[www.community.nsw.gov.au/adoption](http://www.community.nsw.gov.au/adoption)

## **NSW Registry of Births, Deaths & Marriages**

### **Adoption Inquiries**

P: 13 77 88

W: [www.bdm.nsw.gov.au](http://www.bdm.nsw.gov.au)

E: [bdm-webmail@adg.nsw.gov.au](mailto:bdm-webmail@adg.nsw.gov.au)

Visit [www.services.nsw.gov.au](http://www.services.nsw.gov.au) to search for a service centre close to you.

## **Supreme Court of NSW**

The Supreme Court of NSW has records of court proceedings relating to adoptions. It can be particularly useful to apply to the Supreme Court for these records if there is only limited information on the adoption file or if the adoption was arranged by a solicitor.

Adoption Clerk, Supreme Court NSW

GPO Box 3, Sydney NSW 2001

P: (02) 9230 8733



**STATEMENT OF COUNSELLOR**

(Guardian giving consent)

**ADOPTION ACT 2000 (NSW) Section 61(3) & 63**

I certify that I have:

- **Provided counselling in relation to**
  - the legal effect of signing the instrument of consent,
  - the procedure for revoking consent,
  - the effect of the mandatory written information,
  - the emotional effects of adoption and
  - the alternatives to adoption

to \_\_\_\_\_  
first middle name/s last  
(full legal name of person with parental responsibility)

In relation to:

\_\_\_\_\_ first middle name/s last  
(full legal name of the child)

born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

on \_\_\_\_\_  
(date/s counselling took place)

I certify that the above named person understands the effects of signing the instrument of consent to Adoption pursuant to section 61(3) of the *Adoption Act 2000*.

I certify that on this date I am on the Register of Counsellors in accord with Clause 78 of the Adoption Regulation 2015.

Name: (print) \_\_\_\_\_

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

I am the above named person with parental responsibility for the child named above. I have received counselling as described above.

Signature: \_\_\_\_\_

Date: \_\_\_\_\_

**STATEMENT OF PERSON QUALIFIED TO WITNESS A CONSENT  
(IMMEDIATELY BEFORE CONSENT IS SIGNED)**

ADOPTION ACT 2000 (NSW) Section 62(2); 184 and 185  
ADOPTION REGULATION 2015 (NSW) Clause 81 & 82

I, \_\_\_\_\_  
first middle name/s last  
(full legal name of person)

of \_\_\_\_\_  
(full address - number, street, suburb, state)

declare that:

1. I am a \_\_\_\_\_  
(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (and not the caseworker for the proposed adoptive parents) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.

2. I confirm I am not an officer of the Department, or an employee of an accredited adoption service provider who is the caseworker for the proposed adoptive parents.

3. I confirm I am not the registered counsellor of the person signing this instrument.

4. I certify I have sighted the following document(s) to confirm the identity of the person named below who is giving consent:

\_\_\_\_\_

5. I confirm I am not aware of any mental, emotional or physical unfitness of the person named below to give consent.

6. I certify I am satisfied that:

\_\_\_\_\_

first middle name/s last  
(full legal name of person giving consent)

- Has been provided with a copy of the instrument of consent and the mandatory written information at least 14 days before the consent was signed ; AND
- Has been given ample opportunity to read the instrument of consent and mandatory written information and understands the effect of signing the consent ; AND
- Has been counselled within the prescribed (period not more than 30 days or less than 72 hours before giving consent) and understands the effects of giving consent; AND
- The person giving consent is a person who has parental responsibility for the child for whom consent is being given; AND
- Is signing the consent free from threat, inducement or influence of any kind as set out in section 184 of the *Adoption Act 2000*.

7. I confirm I have sighted (~~strike out~~ and initial paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent):

- (where the person giving consent has participated in an assessment of their fitness to give consent) a “Certificate of Fitness” prepared by \_\_\_\_\_ (a psychiatrist or registered psychologist) dated \_\_\_\_\_ stating that the above named person is in a fit condition to give consent.
- (where the child is Aboriginal)
  - a “Statement of Aboriginal Counselling” dated \_\_\_\_\_ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; OR
  - a “Statement – Refuse Aboriginal Counselling” dated \_\_\_\_\_ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Aboriginal

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.

- (where the child is Torres Strait Islander)
  - a “Statement of Torres Strait Islander Counselling” dated \_\_\_\_\_ stating that the above named person has been given adoption counselling prior to signing the instrument of consent; **OR**
  - A “Statement – Refuse Torres Strait Islander Counselling” dated \_\_\_\_\_ stating that the above named person has been offered adoption counselling but refused it; confirming that he/she has been provided with written information on Torres Strait Islander customs and culture (at least 7 days before signing consent) and that he/she has read and/or had read to them and understood that written information.

Signature of witness: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ year  
number month year

## WHO CAN WITNESS AN ADOPTION CONSENT

The following persons are prescribed in Clause 81 of the *Adoption Regulation 2015 (NSW)* to witness consent to adoption:

- (a) if the instrument is signed in New South Wales:
  - (i) the Secretary  
Delegates of the Secretary include Family and Community Services Caseworker, Casework Specialist, Manager Casework or Manager Client Services.  
NB: Clerical/Administrative staff of Family and Community Services are not delegated to witness a consent.
  - (ii) an independent lawyer  
Consent to adoption is not to be witnessed by the lawyer who acts for the applicant(s) for an adoption order in respect of the child who is the subject of the consent, or by any partner or employee of the lawyer.
  - (iii) a principal officer of an accredited adoption service provider.
  - (iv) a registered counsellor (under Clause 81 *Adoption Regulation 2015*) (not being the counsellor of any person signing the instrument or a person who is not independent of such a counsellor)

Consent to adoption is not to be witnessed by an Officer of the NSW Department of Family & Community Services or the employee of an accredited adoption service provider or designated agency who is the caseworker for a person adopting the child.

- (b) if the instrument is signed in another State or in a Territory: a person authorised by the law of that State or Territory is to witness a consent to the adoption of a child.
- (c) if the instrument is signed outside of Australia:
  - (i) an Australian Consular officer as defined in section 26 of the Oaths Act 1900
  - (ii) a judge of a court or magistrate of that place
  - (iii) a person authorised by the law of that place to attest to a consent to the adoption of a child.

## OFFENCES

It is an offence under Section 177 of the *Adoption Act 2000* for any person to give or receive payment or reward in relation to the giving or signing of consent to adoption.

It is an offence under Section 184 of the *Adoption Act 2000* to use any force or threat to influence a person or child to sign or not to sign an instrument of consent.

It is an offence under Section 185 of the *Adoption Act 2000* for a person to witness a consent without being satisfied that the person signing the consent is a parent or guardian of the child, that the person is signing free from any threat, inducement or influence, that the person understands the effect of the consent and that the consent bears the date on which it is signed by the person giving the consent.

**SPECIFIC CONSENT TO ADOPTION OF A CHILD**

(Guardian giving consent)

**ADOPTION ACT 2000 (NSW) Section 53(1)(b) & 61  
ADOPTION REGULATION 2015 (NSW) Clause 80(3)**

I, \_\_\_\_\_  
first middle name/s last  
(full legal name of person)

of \_\_\_\_\_  
(full address - number, street, suburb, state)

being the person who has parental responsibility of

\_\_\_\_\_ first middle name/s last  
(full legal name of child)

born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

at \_\_\_\_\_ in the State of \_\_\_\_\_

give consent to the adoption of the above named child by:

\_\_\_\_\_ (full legal name of proposed adoptive parent/s)

of \_\_\_\_\_  
(address of: proposed adoptive parents or relevant Community Service Centre or relevant NGO Out of Home Care Service or relevant Accredited Adoption Service Provider)

being the child's \_\_\_\_\_  
(description of their relationship to the child eg. authorised carer, step parent, aunt, uncle)

who has cared for, lived with and/or had a relationship with the child for \_\_\_\_\_ years.

In giving consent to the adoption:

- I received a copy of the instrument of consent and the mandatory written information on \_\_\_\_\_ being at least 14 days before this day.
- I received counselling pursuant to section 63(1) of the *Adoption Act 2000* on \_\_\_\_\_ being no more than 30 days and no less than 72 hours before this day.
- I have been informed and understand that on the making of the adoption order my legal rights as a guardian to the child will cease and parental rights and responsibilities will be transferred to the adoptive parent(s), and that for all legal purposes the child will be considered to be the child of the adoptive parent(s).
- I understand that I have the right to revoke (withdraw) my consent for adoption before 5pm on \_\_\_\_\_ which is 30 days beginning on the day on which I signed consent (Day 1 being the day after signing) by giving notice in writing to the Registrar of the Equity Division, Supreme Court, Queens Square, Sydney, NSW.
- I understand that if the Court is not satisfied that the best interests of the child will be promoted by adoption the Court has the power to make alternate orders in relation to the parental responsibility of the child, for example a parenting order under the Family Law Act or an order declaring the child to be under the parental responsibility of the Minister.

# SAMPLE ONLY – DO NOT FILL OUT OR SIGN

- I have been informed of my rights under the *Adoption Act 2000*.

***Strike out and initial paragraphs (or parts of a paragraph) below, that are not relevant to the person giving consent:***

- The child is Aboriginal. In accordance with section 64 of the *Adoption Act 2000*,  
I have been given adoption counselling prior to signing the instrument of consent; OR  
I have been offered adoption counselling but refused it. I have been provided with written information on Aboriginal customs and culture on \_\_\_\_\_  
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- The child is Torres Strait Islander. In accordance with section 65 of the *Adoption Act 2000*,  
I have been given adoption counselling prior to signing the instrument of consent; OR  
I have been offered adoption counselling but refused it. I have been provided with written information on Torres Strait Islander customs and culture on \_\_\_\_\_  
(being at least 7 days before signing this consent). I have read and/or had read to me and understood that written information.
- I hereby request and authorise:
  - the Secretary of the NSW Department of Family & Community Services; OR
  - the Principal Officer of \_\_\_\_\_  
(Name of Accredited Adoption Service Provider)

to make arrangements for the adoption of the above named child by persons approved as fit and proper to adopt a child and selected as suitable to adopt the child, and specified above.

Signature of person giving consent: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

Signature of Witness: \_\_\_\_\_

Qualification of Witness: \_\_\_\_\_

(Insert one of the following) - Delegate of the Secretary - Principal Officer Accredited Adoption Service (*and not the caseworker for the proposed adoptive parents*) - Independent Lawyer - Registered Counsellor. If signed outside of NSW refer to the witness categories listed in Clause 81(1) of *Adoption Regulation 2015*.

**STATEMENT OF PERSON QUALIFIED TO WITNESS CONSENT AT TIME  
CONSENT IS SIGNED (IMMEDIATELY AFTER CONSENT IS SIGNED)**

ADOPTION ACT 2000 (NSW) Section 62  
ADOPTION REGULATION 2015 (NSW) Clause 81

On the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ I witnessed  
                                number                                month                                year

\_\_\_\_\_  
first                                middle name/s                                last  
(full legal name of person giving consent)

Sign the instrument of consent to the adoption of:

\_\_\_\_\_  
first                                middle name/s                                last  
(full legal name of child)

I confirm that the instrument of consent bears the date on which it was signed by the person giving consent.

Signature of witness: \_\_\_\_\_

Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
                                number                                month                                year

**REVOCAION OF ADOPTION CONSENT – PARENT / GUARDIAN**

**ADOPTION ACT 2000 (NSW) Section 73 (2)**

You can revoke (withdraw) your consent to adoption at any time up to 30 days from the date you gave consent, with counting for the 30 days beginning on the day after you signed the instrument of consent (That is, day one is the day after signing). **You cannot revoke your consent after this period.**

You can fill in the notice below and post it or deliver it personally to the Court. The revocation form or a letter **must** arrive at the Supreme Court before the end of the 30 day revocation period. Send your letter or this form to:

Attention: Adoption Clerk Registrar of the Equity Division Supreme Court of NSW Queen's Square 184 Phillip Street, (GPO Box 3) SYDNEY NSW 2000	#
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If you have any questions about how to revoke your consent contact your caseworker or ring **Adoption Services, Family & Community Services on (02) 9716 3003 and ask to speak to a caseworker.**

**REVOCAION NOTICE**

I, \_\_\_\_\_  
first middle name/s last  
(full legal name of person giving consent)

of \_\_\_\_\_  
(full address – number, street, suburb, state)

being the \_\_\_\_\_  
(mother, father or guardian)

of \_\_\_\_\_  
first middle name/s last  
(full name of child)

born on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year

at \_\_\_\_\_ in the state of \_\_\_\_\_  
suburb/city

on \_\_\_\_\_ gave consent to the adoption of this child.  
insert date

**I hereby withdraw my consent to my child's adoption**

Signature: \_\_\_\_\_  
(signature of person revoking consent)

Dated the: \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
number month year