



	Guardianship	Parental Responsibility to suitable persons	Adoption
Which legal jurisdiction applies?	NSW Children's Court	NSW Children's Court	Supreme Court of NSW
What's the duration of the order?	To 18 years of age	Various – including shorter-term orders and orders to 18 years of age	Permanent
Legal ties with parents	Remain	Remain	All legal ties with birth parents severed
Does the child receive a new birth certificate?	No	No	Yes. The adoptive parents are recorded as parents and where a name change has been ordered by the Court the child's birth certificate reflects their adoptive parents' surname
Can order change?	Yes. If 'significant change in relevant circumstances' occurs, the Court may grant leave for a s.90 application to be heard. The Court must prioritise the views of the child for s.90 and has summary dismissal powers	Yes. If 'significant change in relevant circumstances' occurs, the Court may grant leave for a s.90 application to be heard	No, however in exceptional circumstances an adoption order can be discharged, such as where the order or consent to the adoption was obtained by fraud, duress or other improper means, or some other exceptional reason
Is parental consent required?	No, however the Court will take parents' views into consideration	No, however the Court will take parents' views into consideration	Yes – unless consent is dispensed with by the Court or the child is 12+, has sufficient maturity, has been cared for by the proposed adoptive parents for at least two years and provides sole consent
Can parental responsibility be shared by two people?	Yes, an order can be made to a suitable person or persons jointly	Yes. Order can be made to a suitable person, persons jointly, and/or with the Minister	Yes, an order may be made in favour of one person or jointly in favour of a couple
Reporting required?	If guardian is receiving an allowance, once a year the guardian is required to confirm that the child remains in their care	Annual review of placement	If adoptive parent is receiving an allowance, once a year the adoptive parent is required to confirm that the child remains in their care

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How is family contact managed?	Full responsibility of the guardian to manage and supervise, where required. The guardian must abide by any contact order made by the Children's Court which can be made for the length of the guardianship order	FACS/Funded Service Provider can facilitate and supervise contact at need	Full responsibility of the adoptive parent/s. The adoptive parents must comply with terms of any registered adoption plan as the terms of the adoption plan (including contact arrangements) have the effect of court orders and can be enforced
Is there casework support?	No	Yes, eligible	No
Authorisation required after final order?	No – the authorisation is taken to be cancelled automatically when a guardianship order is made in favour of an authorised carer	Yes – and WWCC updates required only where allowance provided	No. The adoptive parent can surrender their authorisation if they no longer care for any child in OOHC, otherwise if they do not provide OOHC to any child for two or more years, the designated agency must cancel their authorisation
FACS legal support if parent applies to vary/rescind the order?	Yes, for a period of three years after final orders are made and where FACS' position is consistent with the guardians	FACS will be involved in the proceedings. Separate representation not required unless carer's position differs from that of FACS	N/A
Are there allowances?	Yes – FACS Guardianship Allowance (Standard, +1 and +2)	Yes – FACS Supported Care Allowance (Standard, +1, +2), or FACS Statutory Care Allowance (Standard, +1, +2 for non-relative/kin)	Yes, if order made after 1 July 2017 (Standard, +1 and +2)
Means testing applies to allowance?	No	No	Yes, for orders after 1 July 2017 (eligibility for Tax Benefit A)
Other payments?	Limited access to additional support payments for education, childcare, medical/dental, prof. therapy, cultural/life-story work costs only. These must be written into the guardianship financial plan prior to the making of a guardianship order.	Yes, contingency payments	Annual payment of \$1500 for orders made before 1 July 2017
Eligibility for Centrelink work exemption?	Only, if guardian is relative/kin	Yes	No
After care support or access to TILA?	No	In general, no. TILA may be accessed where the young person is aged 15 – 17 at the time of order	No

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