



MANDATORY WRITTEN INFORMATION ON INTRAFAMILY ADOPTION

Information for Parents

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1. Introduction

This document is called the 'Mandatory Written Information on Intrafamily Adoption' and is for birth parents who are considering adoption for their child.

Both birth parents of a child have the same rights in relation to planning for their child's future. 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.

The legislation, the *NSW Adoption Act 2000*, requires that where a parent is considering consenting to the adoption of their child, you, as the child's birth parent, must have the opportunity to read the information in the following pages and talk with an appropriately qualified person to ensure you fully understand what adoption in NSW means before you give consent.

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
- 'birth parents' – are the parents who gave birth to the child
- 'birth family' – any member of the child's original family
- 'relative' – as defined in the legislation, means a grandparent, son, daughter, grandchild, brother, sister, uncle or aunt of a person, whether the relationship is of the whole blood or half blood or by marriage and whether or not the relationship depends upon the adoption of a person
- 'adoptive parent(s)' – the person who becomes the parent of an adopted person by adoption
- '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
- 'FACS' – is the New South Wales (NSW) Department of Family and Community Services

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.

Intrafamily adoption is the term used to describe the adoption of a child by a step parent or relative. FACS' role in intrafamily adoption is limited to the provision of the Intrafamily Adoption Information Package and to notifying a mother or father that their child has consented to their own adoption, where their child is aged 12 years or older but less than 18.

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

- will be issued with a new (amended) birth certificate
- have the same rights and responsibilities as any other child of the adoptive parent/s
- can take and legally use the adoptive parent's/s' last name if an order has been made regarding this
- will have an automatic right to inherit the property of the adoptive parent(s), just like any other children in the adoptive family
- their adoptive parent will be able to make all the parental decisions about the child's upbringing

An adoption order is permanent and lasts for all of the child's life.

3. What is 'Open' Adoption?

Adoption is now very different to the 'closed' adoptions that took place from the 1950s 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.

Adoption recognises there is often 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 the 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 parent(s) allows the child to feel comfortable to talk about their birth parents, other members in their birth family, their

cultural heritage and their thoughts and feelings about being adopted, through their growing years.

4 The emotional and developmental effects of adoption

For children

Intrafamily adoption raises a number of issues that are familiar to children growing up in blended families. Children adopted by step parents or relatives in the past have talked about:

- feeling rejected by you
- a fear of losing you
- having divided loyalties between you and their adoptive parent(s)
- confusion about relationships as a result of the amended birth certificate
- anxiety about pleasing the custodial parent
- an inability to express their true feelings
- loss of contact with important extended family members, genealogical connections and knowledge of family history
- loss of inheritance
- regret about the amendments to their birth certificate and the loss of their legal ties to you.

Adopted children, like you, may experience the lifelong effects of adoption. It is important for children to have information about your family background, culture and medical history.

Children raised with openness, flexibility, understanding and an acceptance of their individuality will be less likely to struggle with feelings of grief, rejection, difference and "not belonging". Adoption arrangements that allow children to have some kind of contact with all family members, helps them to know who they are and why they were adopted.

For birth parents

When you are thinking about the possibility of adoption for your child, you are likely to experience a range of feelings. Once you have made the decision for your child to be adopted you may have a sense of relief and feel that you have made the "right choice" or you may continue to have feelings of uncertainty and regret.

Parents, whose children have been adopted, describe the pain of losing their child as being life-long. The pain may be worse at some times than at others. Although you may find ways of living with it you will 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 ongoing counselling and support.

Adoption legislation allows and encourages you to have contact with or receive regular news, of your child, directly from the adoptive parents. This contact may bring joy and

reassurance or satisfaction, but it may also remind you that someone else has the day-to-day care of your child. Following contact visits with your child, you may experience again what you have lost and deeply regret what has happened. Therefore contact with your child may bring with it a mixture of happiness and sadness.

As your child grows older, his/her needs change and develop. Your relationship with your child may be easier at some times than at others, causing you, at different times, to wonder whether you can cope with ongoing contact.

If you and your child were separated for many years before adoption was arranged, your contact with each other might be easier now that a clear plan for the future has been made. You both might feel a sense of release and be more able to move on with your relationship.

Being a non-custodial parent is often difficult; there is a strong community expectation that parents will look after their children. Some non-custodial parents say they don't feel like a parent. Often their friends don't know how to acknowledge their role, and parents can feel hurt and disappointed by this. You have to develop your own way of marking special times like your child's birthday and Mother's or Father's Day.

Support Groups

Other parents who are grieving have found it helpful to have professional counselling or to talk to other parents in similar situations. It is important to remember that there are supports available to you along the way – post adoption counselling, support groups and contact with other parents who have been through what you are now facing. See Section 17 Contacts for details of support groups.

5 A Child's Identity needs

When considering an adoption application, the Supreme Court must consider the child's identity needs, their views, age, maturity, gender, background, and family relationships. The court will consider how adoption might affect your child's physical, emotional, educational needs, sense of personal, family and cultural identity.

The child's relationships with their parents

You don't stop being your child's parent just because there is a breakdown of your relationship with your child's other parent, and your child never stops being the child of both parents. Over time your child learns about both parents and the role each parent has in his/her life.

The child's wishes and consent

If your child is under the age of 12, they will have the opportunity to express their views about being adopted in an age appropriate manner. Your child may see a psychologist or have discussions with a contracted adoption assessor or other advocate. Your child's

consent to adoption is not required but their views and needs must be given due consideration by the Court.

If your child is aged 12 years or more, is capable of giving consent and has lived with their prospective adoptive parent(s) for at least 2 years, the child's consent to adoption is the only consent needed. They must:

- meet with a Registered (adoption) Counsellor and discuss adoption, before they can give consent
- have their capacity to give consent evaluated by a Registered Counsellor. If your child is not capable of giving consent, the Supreme Court may decide to dispense with their consent.

Your child is able to withdraw (revoke) their consent at any time before the adoption order is made.

Identity - your child's name at birth

An important part of your child's identity is their name. The name your child is registered with at birth is your child's full legal name until it is changed by a later re-registration or at the time of making an adoption order. If you want the adoptive parents to keep all or part of your child's name this will need to be part of the discussions you have with them prior to the adoption application being filed at the Supreme Court.

A non-citizen child or a child over one (1) year of age will keep their names unless the Court is satisfied that the name change is in the best interests of the child.

The Court will not change the name of your child if they are aged 12 years or more unless your child has consented to the change. Sometimes an older child may wish to continue using their original last name or have a hyphenated surname incorporating both their birth and adoptive parents' surname.

The child's birth registration

The making of an adoption order not only transfers parental responsibility for your child to the adoptive parent(s), the adoption order will result in your child's original birth registration being changed, to reflect his/her new name if the child's name is changed and legal parent(s). This creates a new legal identity for your child.

Following adoption your child's original birth certificate is filed away at the relevant Registry of Births, Deaths and Marriages, and can no longer be used as the child's official birth certificate.

The NSW Supreme Court instructs the NSW Registrar of Births, Deaths and Marriages to issue a new birth certificate for the child. The new amended birth certificate shows the following information:

- If a custodial parent and his/her new spouse make a joint adoption application, both adoptive parents are recorded as the child's parents.
- If a custodial parent consents to their partner adopting the child as a sole applicant, the parent and their partner are recorded as the child's parents.
- If relatives adopt your child the birth certificate issued will show them as the parents of the child.

In all of the above examples your details do not appear on the new certificate.

On request a single certificate called the 'adopted person's birth record' may be issued by the Registry of Births, Deaths and Marriages. This record will show both the birth parents' details and the adoptive parents' details. This certificate is not valid for legal identification purposes. FACs must provide authority to the Registry of Births, Deaths and Marriages for the provision of an adopted person's birth record therefore contact should be made with the [Adoption Information Unit, to obtain an Adoption Information Certificate \(AIC\)](#). The Unit's contact details are Family and Community Services (FACS) Locked Bag 4028, Ashfield NSW 2131, Phone: 1300 799 023 (local call within Australia) Email: adoption.information@facs.nsw.gov.au

6 Alternatives to Intrafamily adoption

Name change through the Registry of Births, Deaths and Marriages

If both parents agree for your child to have the same surname as their step-parent or the relative caring for them, an application for "Change of Name for a Child" can be made through the NSW Registry of Births, Deaths and Marriages. The new certificate issued will record your child's new surname but does not remove the parent's names from your child's birth certificate.

For more information contact the NSW Registry of Births, Deaths and Marriages:

Address: Check their website for Registry Office and Service NSW locations
Phone: 13 77 88
Website: www.bdm.nsw.gov.au

Orders made under the Family Law Act 1975

Parental responsibility refers to the right to make decisions about the care of your child, deciding where your child will live and with whom your child will have contact. Following separation or divorce many parents are able to make their own arrangements to share parental responsibility and sort out contact between your child, the non-custodial parent and other extended family members. This can be done without the need for order made under the Family Law Act 1975. If agreement can be reached it is possible to formalise this and you should seek legal advice or go to the Family Court website for information about how to do this.

If parents are unable to agree on arrangements for their children they may apply to the Family Court or Federal Circuit Court for a court order that stipulates each parent's responsibility.

Order made under the Family Law Act 1975 are called "parenting orders" and relate to:

- who your child lives with
- the time a child will spend with another person(s) (who, where and how often)
- the communication a child will have with another person(s)
- the allocation of parental responsibility
- child maintenance (financial support)

- any aspect of the care, welfare or development of the child

Parents, a step parent, grandparents or other relatives of a child as someone who is concerned with the care, welfare or development of the child may make an application for parenting orders. Please refer to the Family Court's website. See Section 17 of this booklet for contact details.

7 The legal effects of adoption

When an adoption order is made the child becomes regarded in law as the child of the adoptive parents. In New South Wales, adoptions are made through the Supreme Court.

When the adoption application is made, 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 the parents' consent is not required, see section 8 for more information about requirements for consents to an adoption
- the suitability of the adoptive family
- the arrangements for the Adoption Plan where one has been prepared
- the alternatives to adoption, and whether adoption is clearly preferable to any other order that can be made.

If the Court is satisfied with the above, they 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.

Obtaining a copy of the adoption order

The adoptive parents will receive the adoption order from the Supreme Court. Birth parents can apply to the NSW Supreme Court for a copy of the adoption order. For more detail, see booklet, 'Adoption Act 2000 How it Affects You: Post Adoption for Adoptions made after 1 January 2010'.

Who can access your child's amended birth certificate?

Once an adoption order is made, adoptive and birth parents 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, a birth parent 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.

Your child and their adoptive parents are able to obtain a copy of the child's amended birth certificate at any time after the adoption.

Who can access your child's original birth certificate?

You, your child and their adoptive parents are able to obtain a copy of your child's original birth certificate at any time after the adoption. Post adoption, it will be marked 'not for official purposes.' Where your child is under 18 years they require the approval of their adoptive parents.

Inheritance

Following the making of an adoption order, your child has an automatic right to inherit from his/her 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, unless your child is already specifically named in your and your family members will, the wills would need to be altered to ensure your child's entitlement to inherit.

Is adoption permanent?

Yes. An adoption order is a final order and is very rarely able to be changed. For this reason, it is essential that if you are considering adoption for your child, you have had the opportunity of exploring the alternatives to adoption.

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

8 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. Formally agreeing to adoption is called giving consent.

- If your child is under 12 years, the parent(s) and anyone who has parental responsibility for your child (through a Family or Children's Court order) is required 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 been cared for by the proposed adoptive parent 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 the non-custodial parent's(s') consent to adoption is required. Any person who has parental responsibility for your child also needs to give consent to adoption.

Do both parents have to give consent?

Yes. Adoption law states that both parents and anyone holding parental responsibility for a child must consent to the child's adoption. In a step-parent adoption the custodial parents consent is not required if they are also one of the proposed adoptive parents in a joint adoption application with their spouse.

There are provisions in the *Adoption Act 2000* which allow the Supreme Court to make a 'consent dispense order', 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.

In intrafamily adoption matters the court may decide to dispense with a parent's consent in any of the following situations (where the court is satisfied that it is in the best interests of the child):

- 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 are 'serious concerns for the welfare of the child'

Should an order to dispense with the consent of a parent be sought, all reasonable efforts are required to be made to give the parent notice of the legal proceedings. The parent is able to seek legal advice and representation so that they can put their views before the Supreme Court.

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

If you make the decision to give consent to your child's adoption the following needs to occur:

- You must receive a copy of this 'Mandatory Written Information on Adoption' 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' 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 counselling but no more than 30 days after.
- Consent is given when you sign a specific adoption consent document which is called an 'Instrument of Consent'. A copy of the Instrument of Consent is towards the back of this document.
- A suitably qualified person, who is separate and independent of the registered counsellor, must witness your consent. The witness must not be the solicitor who acts for the applicant prospective adoptive parent(s) or a partner or employee of the Solicitor's firm.
- 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 should also receive a written reminder no less than 7 days prior to the end of the revocation period.
- Once your adoption consent has been given, and the 30 day revocation period has passed, you cannot change your mind about the adoption.

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 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'. 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.

Children over 12 years

If your child is aged 12 or more the following needs to occur:

- They must receive a copy of the 'Mandatory Written Information on Adoption for a Child or Young Person' at least 14 days before giving consent.

- They will need to see a registered (adoption) counsellor who will make sure that they have been given the 'Mandatory Written Information on Adoption for a Child or Young Person', make sure that they understand the legal effect of adoption and both the short and long term emotional effects of adoption on themselves and you.
- They can give consent 72 hours after receiving registered counselling but no more than 30 days after.
- Your child's capacity to give an informed consent must be assessed by the Registered Counsellor.
- Consent is given when they sign a specific adoption consent document which is called an 'Instrument of Consent'.
- A suitably qualified person, who is separate and independent of the registered counsellor, must witness their consent. The witness must not be the solicitor who acts for the applicant prospective adoptive parent(s) or a partner or employee of the Solicitor's firm.
- They will be given a copy of the Instrument of Consent they completed and signed and a written notice informing them that they can revoke their consent at any time up until an adoption order is made.

If your child is Aboriginal or Torres Strait Islander they 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 alternatives to adoption. If they do not want to speak with an Aboriginal or Torres Strait Islander worker, they will be given the 'Written Information on Adoption: Additional Information for Parents of an Aboriginal / Torres Strait Islander Child'. They will then be asked to sign a document that confirms they did not speak with an Aboriginal or Torres Strait Islander worker but have read and understood the written information given to them.

How do I revoke (withdraw) my consent?

There is a period of 30 days during which you have the 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 Supreme 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 must be in writing and must reach the

Supreme Court by 5pm no later than the 30th day after you signed the consent documents. 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
- sign and date your letter before sending it to the Court.

If you are worried or unsure about how to revoke your consent, you can ask for help from the adoption clerk at the Supreme Court or from a solicitor.

9 Report for the Court

If your child is under the age of 18 the NSW Supreme Court will require a report from an approved Contracted Adoption Assessor regarding the proposed adoption.

The Contracted Adoption Assessor is trained by FACS to prepare reports for the Court in adoption matters. During interviews the assessor will speak with your child, to explore their thoughts about the proposed adoption. The assessor will also try to speak with you to seek your opinion about the proposed adoption. The assessor will prepare a written report and send it to the Supreme Court.

The assessor's report will evaluate the reasons for the proposed adoption, the relationship between the applicants and your child, the role of you the non-custodial parent, the suitability of the applicants to adopt, and the benefits or disadvantages of adoption for your child (as opposed to any other legal order).

10 What is an Adoption Plan?

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 is 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.

Who is involved in an Adoption Plan?

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

- the child (for whom adoption is being proposed)
- the birth parent(s)
- the adoptive parent(s)

A parent who has not given consent to the child's adoption can also be involved and agree to the Adoption Plan. By signing the Adoption Plan the parent can demonstrate to the Court their agreement to the plan which means that they will be treated as if they were a party to the adoption.

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, you or any person who is named in the Adoption Plan, can seek the support of a post adoption service. See section 17 'Contacts'.

It is important that you, your child and your child's adoptive parents try to talk about the things that are not 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 named 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 of the adoption order then a non-consenting parent who has not agreed to the Adoption Plan may still be able to enforce the Adoption 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 comply with 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.

11 Step parent adoption

A step parent adoption is where the parent caring for your child (the custodial parent) has remarried or established a stable de facto relationship and the custodial parent and/or their spouse apply to adopt your child.

Adoption may be being considered because they hope to:

- encourage a stronger parent-child bond between the step parent and your child
- create a legal relationship between the step parent and your child, so that the child will have equal rights with other children in the family to child support and inheritance
- allow the step parent to show their long term commitment to your child
- assist the step parent to demonstrate commitment to their partner by adopting your child
- distance your child from his/her non-custodial parent
- give a child who has no father recorded (on his/her birth certificate) a father figure.

Some of these motivations may not be in the best interests of your child, or may have unintended consequences for your child.

The two ways that a step parent adoption application can be made:

Joint application by a parent and new spouse

The custodial parent may apply to adopt your child jointly with their spouse (the child's step parent). If an adoption order is granted they will both be your child's adoptive parents. Subsequent children to the relationship will have full sibling status at law. For birth registration purposes, your child may be recorded as an older sibling on the birth registrations of younger children born to the relationship.

You are able to maintain involvement in your child's life, and be a party to the adoption with roles and responsibilities set out in the Adoption Plan.

Sole application by the step parent

The step parent may apply as a sole applicant to adopt your child. However the custodial parent's written consent to the application for the adoption order is required.

If the Court makes an adoption order in favour of your child's step parent alone, the custodial parent with whom the step parent is living does not cease to be the legal parent of your child. The parent and the adoptive parent will both have parental responsibility for your child (section 95(1) & 95(3) *Adoption Act 2000*).

You are able to maintain involvement in your child's life, and be a party to the adoption with roles and responsibilities set out in the Adoption Plan.

12 Relative adoption

A relative is defined in the *Adoption Act 2000* as a grandparent, son, daughter, grandchild, brother, sister, uncle or aunt, whether the relationship is of the whole blood or half blood, by marriage or by adoption.

Aunts and Uncles

When unable to care for your child, you may have requested that your brother or sister temporarily care for your child. Many families care for a relative's child in this way, with the hope of the child eventually returning to the care of the mother or father. Relatives do not need to be authorised as foster parents to care for a niece or nephew.

In some situations relatives seek a Parental Responsibility Order (under the Family Law Act 1975 through the Family Court or Federal Circuit Court) so that they can make parenting decisions for the child, for example medical treatment, education and interstate or overseas travel. They may also need a court order to prove their entitlement for certain benefits or support services. When the placement of your child with a relative becomes long-term, some families ask about the child being adopted by the relative. Families considering this type of adoption arrangement should ask themselves:

- What ongoing contact will the mother and father have with their child?
- How will the mother and father adjust to permanently losing parental rights?
- How will the child interpret the adoption decision and handle feelings of rejection by the mother and father?
- What effect would adoption have on the family relationships?
- What will be the effect of the change in legal relationships within the family? For example: if an aunt becomes the mother, the mother becomes the aunt; your child's cousin becomes a brother or sister, etc.
- Why would adoption be preferable to other court orders available, such as parenting or parental responsibility orders made under the Family Law Act 1975?

Grandparents

Families considering grandparents adopting a grandchild should consider the following:

- The reassignment of parental rights and genealogical relationships within the family across a generation. Your child's grandparents become mother and father; your child's parent and aunt or uncle become sisters or brothers; your

child's cousins become nieces or nephews, etc.

- Your role with your child may not be acknowledged. You and your child are both stigmatised by having your legal parent-child relationship removed.
- The relationship reflected on the amended birth certificate issued following adoption is likely to be confusing for your child, and may influence the family or other adults to hide your child's true status.

13 Requirements for intrafamily adoption applicants

Applicants must meet the following legal requirements:

- if the applicant(s) are a parent and step parent, the child must have been in their care for at least 2 years
- if the applicant(s) are relatives, the child must have an established relationship with the applicant(s) of at least 2 years
- if the applicants are a couple, they must have been living together for at least 2 years, immediately before the application for an adoption order
- be 21 or more years of age and 18 or more years older than the child, unless the court considers it is desirable to make the order even though the person(s) do not fulfil this age requirement
- be a good repute and a fit and proper person to fulfil the responsibilities of parents
- be resident or domiciled in the state of NSW for a period of at least 3 months immediately before the day on which the application is filed.

The child to be adopted:

- must be present in the state of NSW
- must be at least 5 years old (for a step-parent adoption application)
- must have been cared for by the applicants as their child before turning 18, if the child is aged 18 years or over
- must give consent to their own adoption if they are aged 12 years or more and have been assessed as having the capacity to make an informed decision.

Special provisions apply under Chapter 5 Part 2 of the *Nsw Adoption Act 2000*, to the adoption of a "non-citizen child".

14 What does your child need to know?

It is expected in open adoption practice that your child is aware of his/her origins, who their birth parents are and the proposed adoption application.

For step parent adoption applications, your child will be more than 5 years old at the time of the adoption application and therefore it is expected that both parents will have been helping your child to learn about all their family members and the different roles each parent, relative or step parent has in their life.

If your child is unaware or only has a limited understanding of his/her status, you and your child's other parent may need help with how to tell him/her. There are many helpful books available through libraries and bookstores. Books about human reproduction can help parents begin to explain the child's status. Some other suggested reading:

Books about how adoptive families are formed:

"Beginnings: How Families Come to Be"

by Virginia Kroll (hardback, 32 pages, 1994, USA, for ages 5-10)

"Adoption: What's Happening"

by Karen Bryant-Mole (32 pages, 1992, UK, for ages 6-11)

Books for adults who are helping children with adoption issues:

"Making Sense of Adoption"

by Lois Ruskai Melina, (Harper Row, New York, 1989)

"The Open Adoption Experience"

by Lois Ruskai Melina and Sharon Kaplan (Harper Collins, N.Y, 1993)

15 Who prepares the adoption application?

The Court may make an adoption order on an application made by a relative or step parent. Relatives and step parents may prepare and file their own application. It is strongly recommended that competent legal advice is obtained.

16 Costs

To locate current fees for the provision of a Court Report by Contracted Adoption Assessor and for Registered Counselling, please go to the FACS website:

www.community.nsw.gov.au/parents,-carers-and-families/fostering,-guardianship-and-adoption/adoption/want-to-adopt/intrafamily-adoption.

Please note that there are filing fees payable to the Supreme Court and if you choose to use a solicitor to assist you with the preparation of your application there may also be associated fees.

17 Helpful Contacts

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, 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.Admin@facs.nsw.gov
Website: www.community.nsw.gov.au/parents,-carers-and-families

- **Family & Community Services - Adoption Information Unit**

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: 9716 3005 (Sydney)
1300 799 023 (rural NSW and ACT)
Email: adoption.information@facs.nsw.gov.au
Website: www.community.nsw.gov.au/parents,-carers-and-families

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
Website: www.benevolent.org.au

- **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: www.relationships.org.au

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: www.lawsociety.com.au

- **Law Access**

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

Phone: 1300 888 529
Website: www.lawaccess.nsw.gov.au

- **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: www.legalaid.nsw.gov.au

- **Chamber Magistrates**

Chamber Magistrates are usually located in local courts, and can sometimes provide information about court procedures and applications, 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
Website: www.cjc.justice.nsw.gov.au

- **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
Website: www.familycourt.gov.au

- **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
Website: www.idrs.org.au

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: www.humanservices.gov.au/customer/dhs/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
Website: www.apansw.org.au

- **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
Website: www.origins-international.org/

- **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

Adoption Act 2000: how it affects you

POST ADOPTION

for adoptions made after 1 January 2010

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Open access to adoption information

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

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 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

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 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

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

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 for the 'Registration of adoption plans factsheet'

Referring to adoption in the media

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

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

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

W: 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

W: 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

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

CatholicCare Adoption Services

PO Box 3127

Bankstown Central NSW 2200

P: 02 8700 3333

F: 02 8700 3390

E: adoptions@catholiccare.org

W: 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

W: 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

NSW Registry of Births, Deaths & Marriages

Adoption Inquiries

P: 13 77 88

W: www.bdm.nsw.gov.au

E: bdm-webmail@adg.nsw.gov.au

Visit 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

(Parent 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 including for the parents, the feasibility of keeping their child

to _____
first middle name/s last
(full legal name of parent)

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 parent of 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 parent of 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 is under 18 years of age) a report prepared by _____ (a counsellor or other appropriate expert), dated _____, stating that the above named person is capable of understanding the effect of the consent.
- (where the person giving consent is a birth parent under 18 years of age) a letter prepared by _____ (a solicitor), dated _____, stating that the above named person has received independent legal advice concerning the adoption.
- (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.

SPECIFIC CONSENT TO ADOPTION OF A CHILD

(Parent 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 _____
(mother/ father)

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 parent 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.

**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

REVOCATION 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.**

REVOCATION 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