



Communities
& Justice

**MANDATORY WRITTEN
INFORMATION FOR CHILDREN
ABOUT ADOPTION
Information for Children
and Young People
for Family and Step Parent Adoption**

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1. Introduction

This booklet has information you will need to read if you are thinking about being adopted by your step parent or relatives.

The New South Wales (NSW) law about adoption (the *Adoption Act 2000*) says that children must be asked how they feel about the possibility of being adopted and what they want for their future.

If you are over the age of 12 years, you must read this information and talk with a special counsellor before you can agree to be adopted.

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 – is any member of the child’s original family.
- Adoptive parent(s) – are the people who adopt a child.
- Adoptive family – any member of the child’s new family after adoption
- Independent Assessor - undertake impartial, high quality assessments about the quality of relationships a child is developing with their caregivers. The assessment is designed to assess the suitability of adoption and make recommendations.

2. What is adoption?

The word *adopt* means “to choose and accept as one’s own”. Adoption is a legal process by which the legal rights and responsibilities of being parent are transferred from a child’s parents, to the adoptive parent(s).

Adopted people always have a biological and emotional connection with their parents, brothers, sisters, grandparents, and extended family members, but after adoption, they stop being legally related to them.

Following adoption, you will become a legal member of your adoptive family:

- You will have the same rights and responsibilities as any other child in your adoptive family.
- You can take, and legally use, your adoptive family’s last name. Usually a court order is sought and made to confirm this.
- You will have an automatic right to inherit the property of your adoptive parents just like any other children in your adoptive family.
- Your adoptive parents will be able to make all the parental decisions about your upbringing.

3. How is adoption arranged?

The *Adoption Act 2000* is the law that says how adoptions can be approved and made legal in NSW.

If you are living with your parent and a step parent or with a relative (aunt, uncle, brother, sister or grandparent), they or a solicitor may prepare the adoption application.

Adoption applications are sent to the NSW Supreme Court in Sydney. A judge looks at all the information and decides if you should be adopted or not. If the judge decides adoption is the best thing for you, then the judge will make what is called an **adoption order**.

4. What happens to my birth certificate after adoption?

Before you agree to be adopted, ask to see your original birth certificate. This will no longer be your legal birth certificate if you are adopted.

When an adoption order is made, the NSW Registry of Births, Deaths and Marriages ('BDM') will register the changes to your details. You will be given a new birth certificate, which records your new names (if your name has changed). In the space for 'parents' on the new certificate, your adoptive parents' names, ages and date of marriage will be shown, as well as their address and the names of your adoptive parents' older children (if they have any).

If you are adopted, the details of your birth parents and older siblings will not appear on your new birth certificate. The new birth certificate shows your new relationship as a member of your adopted family and it is now your legal birth certificate.

An Integrated Birth Certificate (IBC) is a form of birth certificate that includes information about an adopted person's parents and siblings at birth, as well as their parents and siblings after adoption.

An IBC will be issued by BDM to all newly adopted persons in NSW with a post-adoptive birth certificate. An adopted person in NSW will receive a post-adoptive birth certificate and an IBC, both are legally recognised and contain the same registration number.

Your original birth certificate is filed away at BDM. You can ask for your original birth registration after adoption but it will then be marked 'not for official purposes'.

5. How do I feel about my birth family members?

Being adopted does not mean you have to forget about your birth family, or that you can't ask questions about them or continue to have contact with them. While adoption changes your legal relationship with your birth family, it doesn't need to change the feelings you have for each other and the time you spend with them or the contact you have.

6. What is an Adoption Plan?

An Adoption Plan is often agreed to when an adoption order is sought in relation to a child who is under 18 years of age. It is an agreement made about:

- The name you are going to be known by.
- How you are going to learn about who you are and where you came from – things like your culture and religion.
- The time or contact you have with family members you don't live with after adoption.

The Adoption Plan will show what agreement has been made about the contact you are going to have with each of your parents or 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. It should mention any special things you needed to help your contact visits go smoothly.

If the Adoption Plan is registered it becomes a court order. Everyone needs to obey the order. If there are problems later on with the way the Adoption Plan is working, any of the parties to the adoption plan can ask for the plan to be reviewed.

In relation to Intrafamily adoption plans you can contact:

1. The Post Adoption Resource Centre
Address: Level 2, 7-11 The Avenue, Hurstville NSW 2220
Phone: (02) 9504 6788 OR 1800 236 762
Email: PARC@Benevolent.org.au
Website: www.benevolent.org.au

Or

2. The Post Adoption Information Unit (PAIU)
Agency: Department of Communities and Justice
Post: Locked Bag 5000, Parramatta NSW 2124
Phone: 1300 799 023 or +61 2 9716 3005 (from overseas)
Email: Adoption.Information@dcj.nsw.gov.au

7. How will I feel about being adopted?

Making the decision about being adopted can be hard and at times confusing. Some children have talked about:

- Feeling sad or upset that their parents let them be adopted
- Being frightened that they will lose contact with their mother, father, siblings or other important birth family members
- Feeling pulled in two directions, between their parent and adoptive parent (having 'divided loyalties')

- Feeling confused about who they are, and no longer being a legal part of their birth family
- Being worried because they love and want to please their adoptive parents
- Being unable to express their true feelings.

Whatever you decide about adoption, you might feel like you are letting someone down. Hopefully you can talk about your feelings with the people close to you.

The court is interested to hear what you want. Tell the Independent Assessor preparing the court report how you feel about the adoption and they will put this in their report for the court.

It is good if you can see the Independent Assessor on your own. Before you see the Independent Assessor, it helps to make some notes about what you want to tell them (in case you suddenly get shy or forget what you want to say).

8. Who has to agree to your adoption?

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

If you are under 12 years old, your parents' consent to your adoption is needed. At this age, your own consent to adoption is not needed, but the court must still consider your wishes. If your parents do not agree to the adoption, but you and everyone else want the adoption to go ahead, it will be up to the court to make the decision. These situations can be pretty complicated and might take a long time to sort out. The court may decide to appoint a 'guardian ad litem' and a Solicitor to make sure that your wishes are clearly put to the court. Sometimes the court will decide not to make an adoption order.

If you are over the age of 12 years and are able to give consent, and you have lived with the people who are applying to adopt you for at least 2 years, only your consent to adoption is needed. Your parents must be told of the adoption application.

The Adoption Act outlines who can adopt. For example, s.30(1)(b) requires that a child has lived with their step parent for 2 years immediately prior to the application but this does not apply if the child is over 18 (s.30(2)). The DCJ Intrafamily adoption factsheet provides more information on who can adopt.

9. Counselling about adoption

You will be asked to talk with at least two people about the proposed adoption before you decide what you want to do –Independent Assessor and a Registered (adoption) Counsellor.

If you are under 18 years of age an **Independent Assessor** prepare a report about your proposed adoption will talk with you about what adoption might mean for you and your family. They will go through this booklet with you and answer your questions. If there are any things you don't understand, they will discuss them further with you.

A **Registered Counsellor** must see you at least 3 days before you give your consent. They will make sure you understand the information in this booklet, the consent form, the legal effect of an adoption order and how you can take back your consent (if you wish to do so before the adoption order is made).

The Registered Counsellor must make sure you are able to understand what you are doing.

If you are Aboriginal or Torres Strait Islander, you will be asked to speak with a suitably qualified Aboriginal or Torres Strait Islander worker about the place of adoption within these cultures and the alternatives to adoption. Alternatively, you may ask to be given written material about adoption in Aboriginal or Torres Strait Islander cultures. A local community based and relevant Aboriginal or Torres Strait Islander organization will be consulted.

10. Giving Consent

To give consent you must sign a special form called ‘consent by a child who has attained the age of 12 years to his or her adoption’.

The Independent Assessor talking with you about adoption will show you a copy of the consent and discuss it with you. On the consent form there are spaces for:

- You to name the people you wish to be your adoptive parent(s)
- You to ask the judge to make an order about the names you want to become your names after adoption. You will usually keep your first name(s), you may add a middle name, and you may change your surname to that of your adoptive parents or you may keep your original surname, (either as a surname or as a middle name)
- Your signature (you sign using your normal signature) and
- The witness’ signatures.

Your Independent Assessor will arrange a time for you to give your consent in front of an independent witness. You should be given a copy of the consent you have signed. Your completed consent is sent with the adoption application to the NSW Supreme Court.

11. Can I change my mind before the adoption order?

Yes. You can take back or **revoke** your consent to adoption at any time up until the time the adoption order is made at the NSW Supreme Court. To revoke your consent, you must write a letter to:

The Registrar in Equity
Attn: Adoption Clerk
Supreme Court of NSW
Queens Square
Sydney NSW 2000

Tell the Registrar your name, date of birth, your parent's names and your contact details like address and phone number. Say that you have changed your mind and write, **"I want to revoke my consent to adoption"**.

If you are worried about how to revoke your consent you can ask for help from the adoption clerk at the Supreme Court, any Legal Aid Office, or your solicitor (if you have one). The contact number for the Legal Aid is at the end of this booklet.

12. What will happen when the adoption application is filed at the Supreme Court?

Most children do not need to go to the court. The judge usually looks at all the adoption application papers in his office, not in court. When the judge is sure that everything is legal and that adoptions is the best thing for you, the judge will make the adoption order.

If you do want to be present when the adoption order is made, you can make a special request for this to the court. If the court agrees to the request, you, your adoptive parents and a few special family members can be present when the order is made.

If one of your parents does not want the adoption order being made, the court may set a date for a 'hearing' that you and your family may need to go to.

When an adoption order is made, the court sends a copy of the order to the solicitor involved (if applicable) and to DCJ. A notice is sent to the NSW Registry of Births, Deaths and Marriages.

Your adoptive parents will receive a letter telling them when the order was made and how to apply for your new birth registration certificate.

13. Can I change my mind after the adoption order?

No. An adoption order makes you a full legal member of the adoptive family for all your life. It doesn't stop when you turn 18 like guardianship or parental responsibility orders. This is why you must be sure you want to be adopted before you give your consent.

14. Are there different court orders that won't change my relationship with my birth family.

Yes. There are other orders you and your family could choose instead of an adoption order, for example:

- An order allocating parental responsibility for making decisions which relate to long term issues (*Family Law Act 1975*).
- An order allocating parental responsibility (Section 86(2) *Adoption Act 2000*).

- Sole parental responsibility order (*Children and Young Persons (Care & Protection) Act 1998*).

These orders would give full responsibilities to your carers, without the need to remove your parent(s)' name(s) from your birth certificate.

15. Can I just change my name without being adopted ?

Yes – if you can meet the requirements of the NSW Registry of Birth Deaths and Marriages. Full information about name changes and the application form is available on the NSW Registry of Births, Deaths and Marriages website at www.bdm.nsw.gov.au.

16. How do I get information from my adoption file?

The *Adoption Act 2000* gives adoptees and their birth and adoptive parents the right to receive identifying and other information about each other from when the adoption order is made. Adoptees also have the right to access information about their siblings. To find out more details about this see <https://dcj.nsw.gov.au/content/dam/dcj/dcj-website/documents/children-and-families/adoption/adoption-act-adoptions-post-2010.docx>

Helpful Contacts

Department of Communities and Justice: Open Adoption Records Access

Postal address: Locked Bag 5000, Parramatta NSW 2124

Phone: (02) 9716 3003

Email: adoption.permanentcare@dcj.nsw.gov.au

Website: <https://dcj.nsw.gov.au/children-and-families/adoption.html>

Department of Communities and Justice: Post Adoption Information Unit (PAIU)

Postal address: Locked Bag 5000, Parramatta NSW 2124

Phone: 1300 799 023 or +61 2 9716 3005

Email: Adoption.Information@dcj.nsw.gov.au

Website: <https://dcj.nsw.gov.au/children-and-families/adoption/finding-information-on-past-adoptions.html>

DCJ Adoption Services provide a statewide adoption service, working with the Department's local offices in NSW metropolitan and country centers. Includes services for local, special needs, intercountry and permanent care adoptions, and post adoption supports for all parties to adoption.

Post Adoption Resource Centre

Address: Level 2, 7-11 The Avenue, Hurstville NSW 2220

Phone: (02) 9504 6788 OR 1800 236 762

Email: PARC@Benevolent.org.au Website: www.benevolent.org.au

Has a bookshop and library on this site with a range of information on adoption.

Legal Aid

323 Castlereagh Street, Sydney NSW 2000

Phone: (02) 9219 5000

Fax: (02) 9219 5935 Website: www.legalaid.nsw.gov.au

Legal representation is available in most areas of law subject to a means and merit test. Appointments must be made for advice. The website had special information for young people.

Intellectual Disability Rights Service – Ability Rights Centre

Legal Help and General Enquiries

Suite 2C, 199 Regent Street, Redfern NSW 2016

Phone: (02) 9265 6350 (9am-5pm, Monday to Friday) Email: arc@idrs.org.au

This service is involved with the rights of people with intellectual disabilities. It provides legal advice and resources to those with a disability, their family, carers and friends; assists solicitors working with people with an intellectual disability

The Law Society of NSW

Community Assistance Department: Solicitor Referral Service

170 Phillip Street, Sydney NSW 2000

Phone: 02 9926 0333

Fax: 02 9231 5809

Email: lawsociety@lawsociety.com.au

This service can refer callers to private law firms practicing 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 website has special information for young people.