



## Department for Child Protection

### ADOPTION SERVICES

## South Australian Born Child – Local Adoption

This fact sheet is about adopting a South Australian born child

#### Adoption Services

Level 3, 31 Flinders Street  
Adelaide SA 5000

GPO Box 1072  
Adelaide SA 5001

Tel 1800 512 355

[adoptions@sa.gov.au](mailto:adoptions@sa.gov.au)  
[www.childprotection.sa.gov.au](http://www.childprotection.sa.gov.au)

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### WHAT IS ADOPTION?

In South Australia adoption orders are granted in the Youth Court.

Adoption is one of a range of services for children who are unable to live with the family into which they are born. Through a legal and social process another family is provided for the child. An adoption order made in a court of law establishes a legally recognised parent-child relationship between the child and the adoptive parents. Adoption is always undertaken with the best interests and legal rights of the child as its primary focus, whilst also safeguarding the legal rights of the birth parents and adoptive parents.

Adoption has a lifelong impact on all the people involved, including the child, the adoptive parents and the birth parents. The birth parents have the security of knowing they have been involved in choosing a family for their child. The child has the security of a committed and capable family. The adoptive parents receive a child from another family into their own family. They parent, love, provide care for that child and have an important role to play in helping the child understand the adoption process.

### WHAT DOES RELINQUISHMENT MEAN?

Relinquishment is a legal process through which a parent voluntarily and legally gives up their parental rights and responsibilities towards their child, by giving their consent to the child's adoption.

### SOUTH AUSTRALIAN ADOPTION STATISTICS

#### WHAT IS THE HISTORY OF ADOPTION IN SOUTH AUSTRALIA?

Adoption has changed a lot over the years. The first South Australian adoption legislation was introduced in 1926 and there have been several changes to this law since.

- From 1937 to 1966 it was legal, and also quite common, for people involved in an adoption to share information about each other.
- In 1966, total secrecy between parties became possible, giving people the choice between secrecy and openness. During this period secrecy about adoption was common. Adopted children were often brought up as if they had been born to the adoptive family, with the child not knowing that they were adopted.
- In the 1980s people around the world began to talk about secrecy in adoption. It was believed that it was better for children to know they were adopted, and that they had a right to information about their birth family.
- People also came to understand that the birth parents of children who were adopted did not simply forget about the child, but often thought about the child after the adoption, and at times suffered ongoing grief about the loss of their child.

- These changes in attitudes led to big changes in adoption laws in South Australia particularly with the *Adoption Act 1988*. This Act gave people who had been previously adopted the right to apply for information about their birth families, and also gave birth parents the right to apply for information about children they had placed for adoption (once they turned 18 years of age).
- The *Adoption Act 1988* also made it possible for information to be shared between people involved in an adoption and, in many cases, ongoing contact was maintained between a child's birth and adoptive families.
- The Adoption Act was reviewed in 2015, resulting in a number of amendments to the adoption legislation. These include:
  - ability by same sex couples to adopt a child;
  - adoption of adults over the age of 18 years;
  - discharge of an adoption order;
  - child's given name at birth to remain unchanged, unless strict circumstances apply;
  - a provision that the birth registration of the child will include the names of the adoptive and birth parents (integrated birth certificate). If all parties agree, this information will be able to be made available to the child, the adoptive parents and the birth parents at any time after the adoption order is granted.

## **HOW MANY AUSTRALIAN BORN CHILDREN ARE ADOPTED EACH YEAR?**

Since 2006, there have been 0-3 children under the age of 12 months placed for adoption each year in South Australia. It is extremely rare for an older child to be placed.

The South Australian pattern is similar to all other States in Australia, with the number of children placed for adoption through voluntary relinquishment becoming less, for a variety of reasons such as:

- Parents have more alternatives to adoption when they are making decisions about the future of their child.
- There is greater income support for single parents and more resources in the community to help families (single and two parents) stay together.
- There is greater community acceptance of different kinds of families, including sole parent families.
- Worldwide research and experience has shown that it is often in a child's best interests to keep children within their own family or in extended families wherever possible so there are many community resources made available to help families build capacity to care for their children.
- More easily accessible forms of contraception are available and abortion is a choice for some people, leading to low numbers of unplanned pregnancies.

The number of people who wish to be considered as prospective adoptive parents outweighs the number of children who need adoption as a way of permanently and legally joining a family. There may continue to be a small number of infants whose parents choose adoption for them.

## **DO THE CHILD'S PARENT/S NEED TO CONSENT TO THE ADOPTION?**

A child must be legally able to be adopted. Usually this means that the child's parent/s have voluntarily and legally relinquished the child for adoption by signing consent to the adoption. There are very limited circumstances where a parent's consent to their child's adoption can be dispensed with by the Court. Sometimes the identity of a child's father is unknown, or he cannot be located to establish his views, however, every effort is made to include both parents of the child in the adoption process.

## **WILL THE CHILD BE ABLE TO KNOW ABOUT THE IDENTITY OF THEIR BIRTH FAMILY?**

- Once the adopted person turns 18 years of age, he/she is legally entitled to apply to obtain identifying information about his/her birth family and any other information about their adoption.
- At that time, the child's birth parents are also legally entitled to apply to obtain the names of the adoptive parents and the adopted person.
- On application, this information can be made available before the child is 18 years of age.
- Exchange of identifying information between birth parents and adoptive parents at the time the child is placed can occur if all parties agree.

## **DO ADOPTED PEOPLE NEED INFORMATION ABOUT THEIR PAST?**

Generally, children can deal better with the idea that they were adopted if it is introduced to them as early as possible, and if they have a chance to have their questions about their adoption answered as they think of them. The medical history of an adopted person's birth family plays an important part for them in managing their health, so it is important for them to have access to this information throughout their lives.

## **WHAT ABOUT BIRTH PARENTS?**

Birth parents may feel ongoing grief for the child they relinquished. This may happen regardless of the reasons for the relinquishment of their child. Birth parents may want information about the child they relinquished and to know whether they are alive and well.

## **POST ADOPTION ARRANGEMENTS**

### **WHAT IS AN OPEN ADOPTION?**

Adoption usually is an open process and one in which exchange of information and identities between the parties is encouraged by the legislation. To enable this, a Department for Child Protection social worker assists with the development and signing of a Post Adoption Arrangement between the birth parents and adoptive parents.

### **WHAT IS A POST ADOPTION ARRANGEMENT?**

A Post Adoption Arrangement is set up in line with the legislation and is considered to be in the interests of the healthy development of the child. It is a plan set up with the agreement of the child's birth parents and adoptive parents. It is intended to grow with the child and express the needs and wishes of the child as they mature.

### **WHAT IS INCLUDED IN A POST ADOPTION ARRANGEMENT?**

The arrangement describes how the two families will stay in contact, what kind of information will be shared between them and how often contact will occur. The child's best interests are critical in a post adoption arrangement. When the child is old enough to express an opinion, their wishes must be taken into account and included in any ongoing arrangement. Post Adoption Arrangements may stay in place until the child turns 18 years of age. It is common for the circumstances of birth parents to change over the 18 years of a child's life. As children and other parties to the adoption grow and change, the arrangement can be changed.

### **WHO IS INVOLVED IN MAKING THIS ARRANGEMENT?**

A Department for Child Protection social worker will discuss and negotiate these arrangements with the adoptive parents and the birth parents at the time the child is placed in his or her adoptive family. Sometimes, other members of a child's birth family or adoptive family are involved in the arrangement, such as grand parents or siblings.

## **WHAT ARE ADOPTION APPLICANTS EXPECTED TO DO IN RELATION TO MAKING THE ARRANGEMENT?**

During the application and assessment process, prospective adoptive parents will be asked to consider their feelings about sharing information with the birth parents of a child, and about their willingness to receive ongoing information about the child's birth family. A post adoption arrangement can include exchange of letters and photos through the Department for Child Protection, or regular meetings and an exchange of contact information between the adoptive and birth parents. At times adoptive parents may choose to include the child's birth family in practical ways in the ongoing life of the child.

## **HOW ARE THE BIRTH PARENTS INVOLVED IN MAKING THE ARRANGEMENT?**

During counselling, birth parents are asked to consider what ongoing information they would like to receive about their child and what information about themselves they are willing to share with the adoptive parents. They are also asked to consider whether or not they might want to meet their child's adoptive parents. They are counselled that even if they do not seek contact or information when their child is placed, their feelings may change over time and they are welcome to come back to the Department for Child Protection when they are ready for information.

## **HOW CAN ADOPTIVE PARENTS HELP THE CHILD UNDERSTAND THEIR ADOPTION?**

Children will pick up on the spirit of the arrangement from their adoptive parents and this often can have a strong impact on the child's views later on. Adoptive parents can help the child to have a positive attitude towards his or her birth family from an early age.

## **CAN THE BIRTH PARENTS AND THE ADOPTIVE PARENTS MEET EACH OTHER?**

Yes, birth parents and adoptive parents may agree to meet each other. This may occur once only, or there may be an arrangement about ongoing contact. Initial contact is usually in the presence of an Adoption Services social worker or some other person, at a time and place as agreed by all parties. Generally, a meeting happens around the time the child is placed in the adoptive family.

## **WHAT INFORMATION MIGHT WE AGREE TO SHARE?**

- You may agree to share your full names with each other.
- You may agree to both the adoptive parents' and birth parents' names appearing on the child's birth certificate.
- You may agree to share your addresses, or other contact details with each other. Many people find it easy to stay in touch by email or social media.

## **CAN WE JUST SHARE NON-IDENTIFYING INFORMATION?**

Adoption Services may act as a 'post box', with parties sending the information to the social worker, so it can be forwarded to the other party, whether or not names and addresses are known. If full contact details are not shared, this does not stop information from being shared. It is anticipated that the sharing of full names will become the most common practice in future.

Some examples of shared information are as follows:

- Adoptive parents may agree to provide the birth parent with information about the progress and development of the child at agreed intervals.
- Information can be exchanged if significant events occur. For example, in the case of a serious or life-threatening illness, it may be relevant for the child and their adoptive parents to know about medical information.
- Parties may agree for the birth parents to send birthday or Christmas presents for the child.

- Adoptive parents may agree to encourage the child to remember his or her birth parents at birthdays and Christmas and may arrange for birthday or Christmas cards or presents to be sent to the child's birth parents or siblings.

## **CAN WE REVIEW OR CHANGE THE ARRANGEMENT?**

- You may agree to an arrangement for a certain number of years, with the possibility of a review being requested by any party or being organised by the Department for Child Protection at a date agreed upon. Usually the arrangement is current until the child turns 18 years of age.
- Any party to the arrangement can contact the Department for Child Protection and ask that the arrangement be reviewed at any time.

## **WHAT ABOUT LEAVING INFORMATION OR ITEMS FOR THE CHILD?**

Birth parents or relatives may leave some information for the child to receive once he or she turns 18 years of age. This may be kept on file at the Department for Child Protection until the child applies for it as an adult. They may also choose to leave a small item for the child.

## **WHAT LAWS GOVERN ADOPTION IN SOUTH AUSTRALIA?**

### **Adoption Act 1988 and Adoption (General) Regulations 2018**

The Department of Child Protection is responsible for the placement of children with prospective adoptive parents. The *Adoption Act 1988* and *Adoption Regulations 2018* establish the criteria for assessment. It is unlawful for people to arrange their own adoption placement.

The Adoption Act and regulations can be viewed at <https://www.legislation.sa.gov.au/index.aspx>

## **BEST INTERESTS OF THE CHILD**

Before the Youth Court will make an adoption order, it must be satisfied that adoption is in the best interests of the child. The Department for Child Protection assists parents to carefully consider their decision before placing their child for adoption.

## **THE ROLE OF THE DEPARTMENT FOR CHILD PROTECTION**

### **WHO CHOOSES THE ADOPTIVE PARENTS?**

If parents make the decision to proceed with adoption for their child, they are encouraged by the Department for Child Protection to be involved in determining the kind of family in which their child will grow up.

Any specific requests that the birth parents make about the adoptive family will be taken into account when placing the child. They frequently express a preference about the age, length of marriage, occupational range and religious affiliation (or not) of the prospective parents.

Birth parents are encouraged to review de-identified information about prospective adoptive parents and express their preference for who they think will be the best match for their child. Prospective adoptive parents provide such de-identified information to the Department for Child Protection to ensure they are happy with what is shared about them.

The decision about which prospective adoptive parents the child should be placed with rests with the Department for Child Protection. When deciding to place a child with a particular family, Department staff will consider the specific needs of the child and aim to find a family who can best care for the child. To do this, a wide range of prospective adoptive parents is needed. This includes applicants who may already have children, as well as childless couples or individuals. It includes applicants from a variety of cultural groups, and with a range of capacities to meet the complex emotional, health and developmental needs of children.

These things are determined through the adoption application and assessment process.

## **FEES**

Applicants must pay administrative fees, payable to the Department for Child Protection, which contribute towards the costs associated with providing the adoption service. Fees are due in stages as the application proceeds and are provided for in the Adoption Regulations.

## **WHAT IF I HAVE TROUBLE PAYING THESE FEES?**

In some circumstances, following discussion with the Supervisor, Adoption Services, payment by instalments can be arranged.

## **THE APPLICATION PROCESS**

The following details are provided as general information about the application process and the eligibility criteria that must be met for applicants to be registered as a prospective adoptive parent.

## **HOW LONG WILL IT TAKE?**

The application process can take up to 18 months after lodgement of an invitation to apply. Once approved, there may also be a long wait, with no guarantee that a child will be placed with applicants. This is because the matching process finds the family best suited to meeting the needs of the child and because few children are relinquished for adoption in South Australia.

## **EXPRESSION OF INTEREST**

Expression of Interest (EOI) packs are given out at the information sessions. In processing your Expression of Interest, the Department for Child Protection will make sure you meet eligibility to apply to be prospective adoptive parents. The EOI form is lodged with the Department for Child Protection. Fees apply to register an EOI and at each subsequent stage of the adoption process.

Documents that must be included with an EOI form are: health statements and medical reports. Signing an EOI form authorises the Department to conduct Child Safe Screening checks on your behalf. The Department will also need to see birth and marriage certificates, and other relevant documents such as divorce decrees.

## **INTERVIEW WITH A SOCIAL WORKER**

People interested in becoming applicants are invited to an interview with a social worker from Adoption Services of the Department for Child Protection. This enables us to get to know you better, answer your questions and confirm that you meet eligibility criteria (which are established in the legislation).

## **EDUCATION WORKSHOP**

Once your eligibility is confirmed, you will be invited to participate in a compulsory education program which covers a range of adoption issues, current practices and ideas. This workshop series will include an introduction to Attachment Theory and its implications for adoptive parenting, and will also include input from adoptive parents, adult adoptees and birth parents if they are available. Your participation in the education program will become part of your assessment through completion of a work book demonstrating your learning through education.

- ***Fees apply at this stage***

## INVITATION TO APPLY

Sometimes high numbers of applicants express an interest in applying to adopt a child. The Department for Child Protection seeks to maintain a register of approved applicants of around 10 couples. This is to maximise the chances for couples on the register to be placed with a child and to provide the Department with a pool of approved families who have a range of characteristics. The needs of children placed for adoption are complex and varied, and it is important to have a range of approved applicants to enable careful matching of child and family.

On completion of the education program, the Department may invite as many applicants to apply as are needed for the register. Applicants will be selected to apply taking into account both the date on which they submitted their expression of interest, and the range of characteristics they offer to the pool of prospective adoptive parents.

Not all applicants who have completed the education program may initially be invited to apply.

As well as completing the official application form, applicants are asked to provide written information about their lives and two referee reports.

- ***Fees apply at this stage***

## ASSESSMENT

After this stage, a social worker will interview you at home and prepare an assessment report about your abilities as potential adoptive parents. The report is a thorough and detailed assessment and may take several hours and several visits to complete.

You will receive a copy of the report prior to the application being finalised so that you can correct any factual errors.

## REGISTRATION

The completed set of application forms and documents, including the assessment report, is then considered. If you are approved you will be registered as prospective adoptive parents for three years. You may seek re-approval for further periods of three years. This is provided for in the Adoption Regulations.

Re-approval applicants must continue to meet all the criteria and participate in a further interview with the social worker to update the assessment report. If your application to be placed on the prospective adoptive parents' register is refused, you may appeal the decision.

## ELIGIBILITY CRITERIA

The following criteria are taken from the Adoption Regulations. All the criteria must be satisfied in order to be approved as prospective adoptive parents.

### REGISTRATION CRITERIA:

- Applicants must be permanent residents of Australia.
- In the case of a joint application, at least one of the applicants must be an Australian citizen.
- Applicants must live in South Australia.
- A person cannot apply for registration if they have had a child removed from their care as a result of a Care or Protection Order, or have been convicted of any offence against a child as shown by a police record check.
- The applicant/s must not have had any previous registration as prospective adoptive parents cancelled on the grounds that it was improperly obtained. This applies to previous registrations in South Australia or any other State or Territory of the Commonwealth.

## **PLACEMENT CRITERIA:**

Once registered, and when considered for the placement of a child, certain criteria for placement apply:

- Preference is given to people in the order of placement on the Local Adoption register, with exceptions as follows:
  - a) If the applicants do not meet the requirements of the birth parent/s and the needs of the child.
  - b) If there are particular circumstances that justify placement with other applicants (e.g. if the other applicants have previously adopted a sibling of the child, or if applicants belong to the same cultural group as the child).
  - c) If the welfare and interests of the child can be better served by placement with another person/s.
- Placement of a child must be with applicants who:
  - a) Have been in a qualifying relationship for at least three years.
  - b) Do not have a child living with them who has been living with them for less than one year, or who will be assuming the care of a child in the next year.
- ***The final fee is payable at the time of placement.***