



Communities
& Justice

OOHC Open Adoption Training.






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OOHC open adoption



Agenda

- What is open adoption and why do we practice it?
- How are decisions made about permanent homes for children?
- What do Aboriginal communities say about adoption?
- Open adoption and guardianship
- How might open adoption best meet the needs of a child?
- What is the open adoption process?
- Where to from here and more information
- Q&A



***What* is Open Adoption and *Why* do we practice it?**

What is open adoption?

- A lifelong and permanent care order
- Changes the legal relationship between the child and their birth family
- Results in a new, integrated birth certificate being issued
- Allocates all aspects of parental responsibility to the adoptive parents
- Is the only adoption practice in NSW



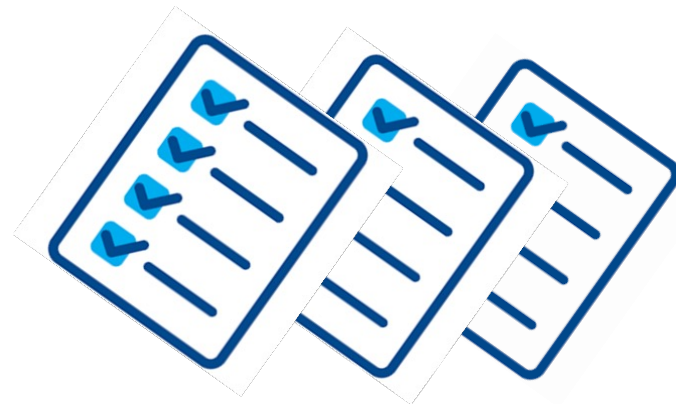
What is openness in adoption?

- More than face to face visits and exchanges of letters and photos
- Attitude and actions
- How does openness benefit a child?
 - The child understands why they were adopted
 - The child explores their family's culture and religion
 - The child identifies shared traits and interests
- Practising openness in adoption is not always easy



What is an Integrated Birth Certificate?

- An adopted person used to have an original birth certificate and an amended post-adoption birth certificate
- On 16 November 2020, NSW legislation was introduced, to allow for the creation of integrated birth certificates
- An integrated birth certificate includes a person's birth and adoption details in one document



How are decisions made about permanent placements for children?

- Permanent Placement Principles
 - a) Restoration
 - b) Guardianship
 - c) Open adoption (except for Aboriginal or Torres Strait Islander children)
 - d) Parental responsibility to the Minister (OOHC)
 - e) Open adoption of Aboriginal or Torres Strait Islander children

Adoption and Aboriginal Communities

There are strong and mixed views in Aboriginal communities about open adoption. Some fears are:

- Open adoption is a way of “colonising their people”.
- Adoption is not practised in Aboriginal communities.
- Aboriginal communities are a child’s ‘forever family’.
- An open adoption will stop a child from being able to identify as Aboriginal.

Adoption in Australia – Past, Present and Future

The Perspectives of Aboriginal Communities – Background and Context



Adoption in Australia – Past, Present and Future



The Governor Sir Charles and Lady Galester with Abbot Gomez inspecting the children of St. Joseph's Orphanage, New Norcia, WA

Source: Photos Library - NSW

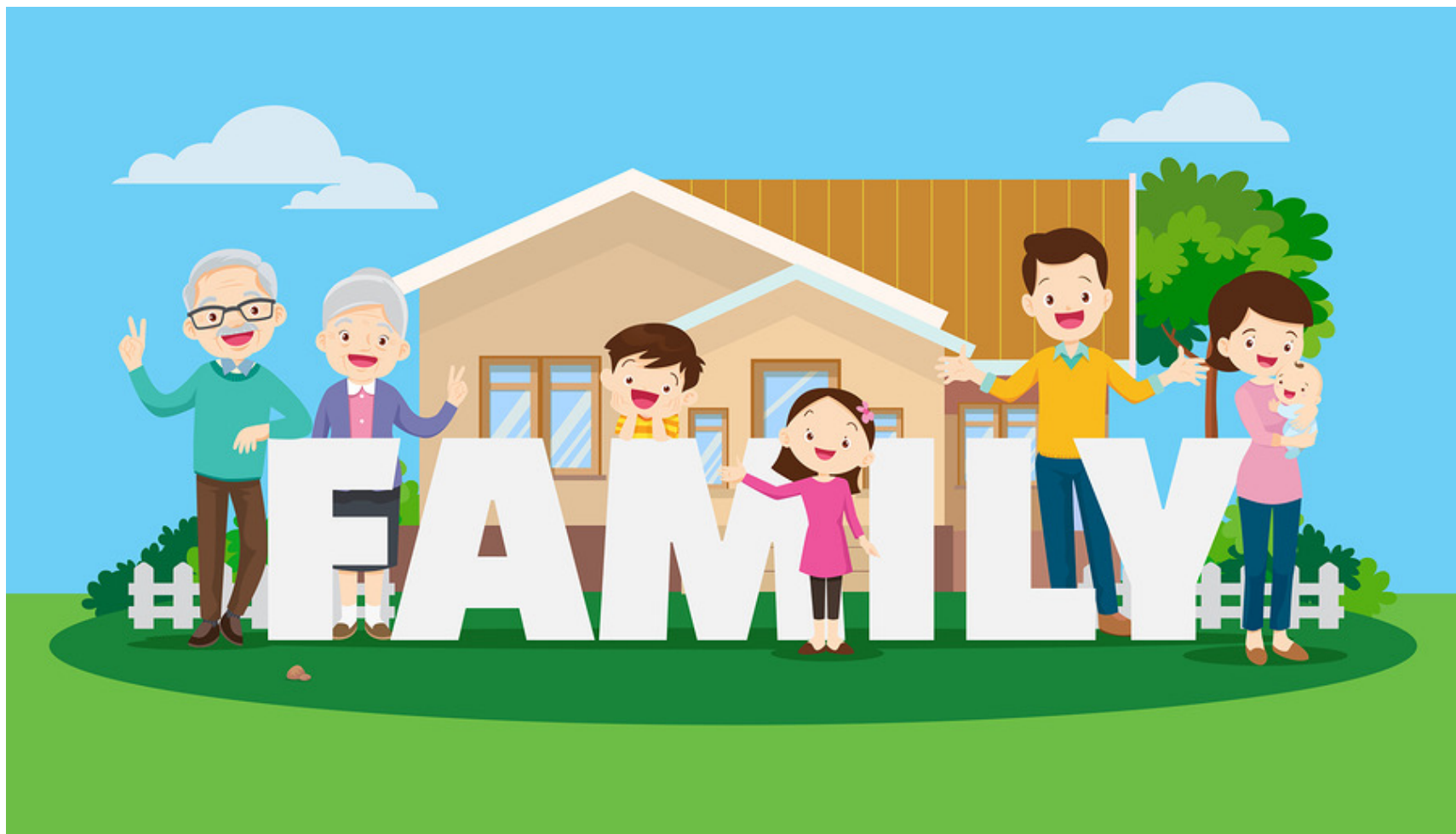
Guardianship and OOHC open adoption

Guardianship	OOHC Adoption
Permanent order until the child turns 18	Permanent order
Order can be overturned, but unlikely	Order cannot be overturned
Keeps legal relationships between child and family	Changes legal relationships between child and family
Child keeps original birth certificate	Amended and Integrated birth certificates are issued
Child over 12 years must consent to the order	Child over 12 years must consent to the order
A parent can consent to the child's care plan that has guardianship as the goal	If the child is under 12 years, each parent must consent to the child's adoption, or there must be grounds to dispense with their consent

Guardianship and OOHC open adoption

Guardianship	OOHC Adoption
Family time managed by guardianship family. A contact order can be made	Family time managed by adoptive family Adoption plan can be registered with the Court
Child's cultural plan lodged with the Court with the order application	Child's cultural plan lodged with the Court with the order application
Post order support involves: <ul style="list-style-type: none">- Ongoing allowance- Provisions of guardianship financial plan- FTB A – if eligible- Teenage Education Payment- Access to all community support services	Post order support involves: <ul style="list-style-type: none">- If eligible for FTB A – ongoing allowance- If ineligible for FTB A – One off payment \$3000 and \$1500 annually- Limited advice and mediation support for family time challenges- Access to all community support services

VOICES OF ADOPTION



VOICES OF ADOPTION



When might OOHC open adoption best meet the needs of a child?

- The carer family is the only family the child has 'ever known'.
- The child wants to belong to a family, by law and forever.
- The child is the only member of the carer's family not legally related to all other members.
- The child's parents want their child adopted by the carer.

Why might you want to adopt the child in your care?

- You feel confident parenting without DCJ or NGO help
- You want to make a legal commitment
- You want the child to have the same legal status and inheritance rights as your other children
- You can see and hear how the child might benefit from open adoption

Are you eligible to adopt?

- Can you meet the needs of the child without casework support?
- Can you help your child with their additional needs?
- Can you help the child develop and maintain meaningful connections with their family and culture?

OOHC open adoption process

1. Caseworker tasks completed

- Discuss adoption with family
- Search for family members
- Make sure cultural plan is up-to-date
- Make sure lifestory work is up-to-date

2. Approval to change case plan goal

3. Invitation to apply to adopt

OOHC open adoption process

4. Adoption assessment completed

- Assessor will speak to everyone in the family
- Assessor will make recommendations about:
 - Is adoption the best option for the child?
 - Are you able to meet the child's needs as an adoptive parent?

5. Approval to progress to adoption

- District Director approves you as prospective adoptive parents and to commence adoption action
- The Secretary approves, if the child is Aboriginal

6. Finalisation of adoption application

OOHC open adoption process

7. Application filed in Supreme Court

- DCJ files application

8. Adoption order made

- Judge makes decision in 'chambers'
- You can request to be present for adoption order

9. Integrated and amended birth certs created

- You will be told when to apply through BD&M

Where to from here?

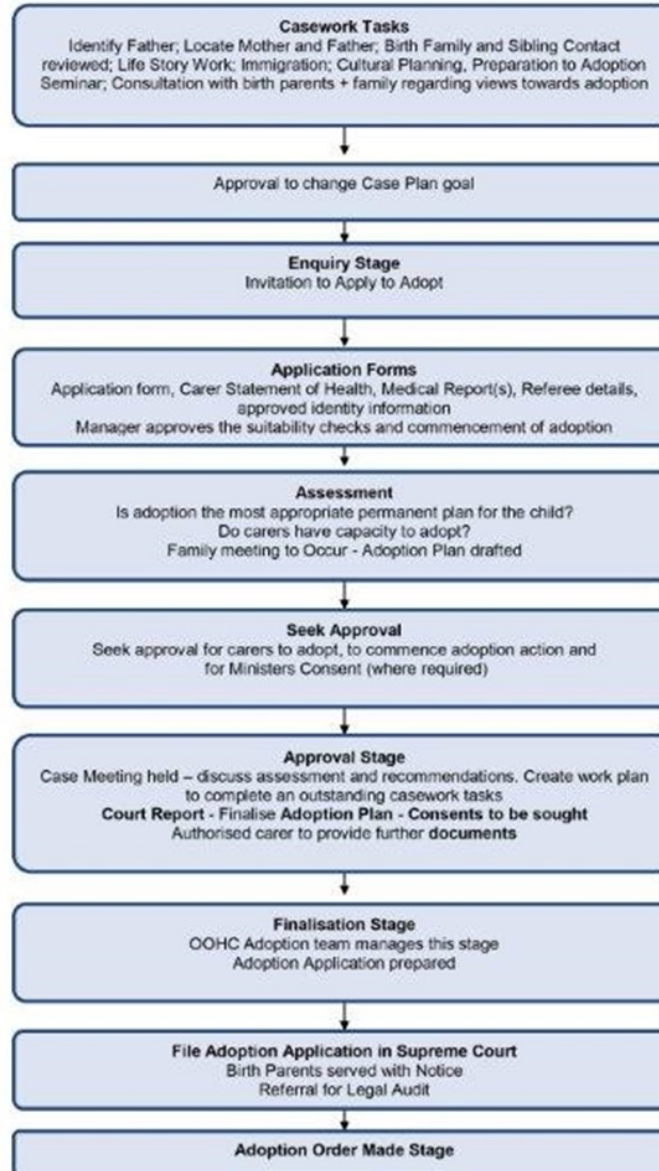
- OOHC open adoption – speak to your caseworker who can get help from an adoption caseworker
- Guardianship – speak to your caseworker who can get help from a permanency coordinator



OOHC Adoption Fact Sheets

- OOHC Adoption Fact Sheet for Carers:
<https://www.facs.nsw.gov.au/download?file=336631>
- OOHC Adoption Allowance:
<https://www.facs.nsw.gov.au/download?file=418563>
- Integrated Birth Certificates:
<https://www.facs.nsw.gov.au/download?file=793611>
- Services for adopted children under 18 years and their families:
<https://www.facs.nsw.gov.au/download?file=572133>

OOHC Adoption Process



Updated March 2020



	Guardianship	Parental Responsibility to Minister	OoHC open Adoption
Which legal jurisdiction applies?	NSW Children's Court	NSW Children's Court	Supreme Court of NSW
What's the length of the order?	To 18 years of age	Various – including shorter-term order and to 18 years of age	Lifelong
Does a child's legal relationship with their family change?	No	No	Yes. The child is no longer legally related to their family.
Does the child receive a new birth certificate?	No	No	Yes. The adoptive family is recorded as the child's legal family. The child's name is changed, where court-ordered. The child receives both an amended and integrated birth certificate.
Can the order change?	Yes. A s.90 application can be lodged in Court to change or end the order. The Court must consider the views of the child and has powers to dismiss an application.	Yes. A s.90 application can be lodged in Court to change or end the order. The Court must consider the views of the child and has powers to dismiss an application.	No. But in exceptional circumstances, an adoption order can be discharged, where the order or consent to the adoption was obtained by fraud, duress or other improper means, or some other exceptional reason.
Is parental consent for the order needed?	No. But parents can consent to the order via a 'consented care plan' if they wish. Either way, the Court will consider the parents' views.	No. But parents can consent to the order via a 'consented care plan' if they wish. Either way, the Court will consider the parent's views.	Yes. Unless consent is dispensed with by the Court, or the child is 12+ and consents to their own adoption.
Can parental responsibility be shared by two people?	Yes. An order can be made to a suitable person or persons jointly.	Yes. The Court can give full PR to the Minister or share aspects of PR between Minister and other suitable people.	Yes. An order may be made in favour of one person or jointly in favour of a couple.
How is family time managed?	Management of family time is the responsibility of the guardian. They must abide by the arrangements set out in the child's care plan. They must also abide by any contact order made by the Court.	Management of family time is the responsibility of DCJ/NGO, with the authorised carer. They must abide by the arrangements set out in the child's care plan. They must also abide by any contact order made by the Court.	Management of family time is the responsibility of the adoptive parent. They must abide by the arrangements set out in the adoption plan. A 'registered' adoption plan has the effect of a court order and can be enforced.

	Guardianship	Parental Responsibility to Minister	OOHC open Adoption
Is casework support available?	No. But challenges with family time can be discussed and mediated through the Family Dispute Resolution Care and Protection program with Legal Aid, NSW.	Yes	No. But challenges with family time can be discussed and mediated through the post adoption service of DCJ or accredited adoption service provider.
Is carer authorisation needed after the order is made?	No. the carer authorisation is cancelled automatically when a guardianship order is made. Their authorisation will continue if they are caring for other children in OOHC.	Yes	No. The adoptive parent can surrender their authorisation if they no longer care for any child in OOHC. If they don't provide OOHC to any child for two or more years, their agency must cancel their authorisation.
Will DCJ provide legal support to the child if a parent applies to change or end the order?	Yes. For a period of three years after the order is made.	Yes. DCJ will be involved in the proceedings.	No. A parent is unable to seek to change or end the order unless in exceptional circumstances.
Is an allowance available?	Yes. DCJ Guardianship Allowance (Standard, +1 and +2)	Yes. DCJ Statutory Care Allowance (Standard, +1, +2)	Yes. OOHC Adoption allowance, if the order was made after 1 July 2017 (Standard, +1 and +2)
Are allowances means tested?	No	No	Yes. The adoptive parent must be eligible for Family Tax Benefit A.
Are other payments available?	Yes. Limited access to support payments for education, childcare, medical/dental, professional therapy and cultural/life-story work costs only. These must be written into the guardianship financial plan prior to the order being made.	Yes. Contingency payments in line with the child's case plan.	Yes. If an adoptive parent is ineligible for an allowance, they receive a one off payment of \$3000, and \$1500 annually until the child turns 18.
Is an annual review needed?	Yes. Annually, the guardian needs to confirm with DCJ that the child remains in their care (and evidence ongoing Care +1 or +2 is needed).	Yes. DCJ/NGO conduct an annual review of the placement.	Yes. An adoptive parent who receives any allowance or payment, must confirm annually with DCJ that the child remains in their care (and evidence ongoing Care +1 or +2 is needed).
Are carers eligible for a Centrelink work exemption?	Only if the guardian is relative/kin.	Yes	No
Are after-care support services or TILA available?	No	Yes	No

Any questions?