

Considering Open Adoption for Non-Aboriginal Children

Open adoption is one of the permanency options available to a child or young person (child) in out-of-home care (OOHC). Deciding which permanency option is the right choice for a child can be complex. There are several factors you will need to think about when considering open adoption. Contemporary open adoption policies and practices are vastly different from the past practices in Australia. For information about past adoption practices, see: [Foundations of Open Adoption](#). [Considering open adoption](#), or ‘getting ready’, is the first of the [six steps to open adoption from OOHC](#).

The adoption of Aboriginal children is a complex, contentious issue and deeply hurtful for many people. Adoption is the last permanent placement option that should be considered for Aboriginal children. The [Open Adoption and Aboriginal Children](#) factsheet sets out, in detail:

- how to apply child placement principles to determine the best permanency case plan goal for an Aboriginal child, and
- the more rigorous process you must follow if your agency is considering the adoption of an Aboriginal child.

For insights into the Aboriginal people and the child protection system see the [Working with Aboriginal Children, Young People and Families](#) practice area.

Thinking about Permanency

Before discussing adoption with the child, their family, and the prospective adoptive parent/s, you need to engage in a cultural consultation, a permanency consultation including an adoption case worker and consider the requirements for adoption.

Cultural Planning and Consultation

[Cultural planning and consultation](#) is essential for every child in OOHC who is Aboriginal, Torres Strait Islander or comes from a culturally and linguistically diverse (CALD) background. Cultural planning and consultation helps support the child to develop a

healthy and positive sense of identity and belonging. It also gives power to a child's family and community to help decide the best permanency option for a child.

Cultural planning and consultation does not end when open adoption is being considered for a child in OOHC. In fact, it is a key time for you to work on a child's cultural support plan and to understand how and if their cultural needs can be met if they are adopted. Cultural consultation will involve you speaking directly with the child's family, kin, other significant people in the child's life, community organisations, or peak bodies to understand:

- how adoption is viewed in the child's cultures
- how adoption might impact the child's cultural plan
- how adoption might impact on a child's cultural identity
- how the child's family, kin and community can continue to support the child's cultural identity after they are adopted
- how the carer can support the child's cultural identity after they are adopted.

A child's cultural plan will be lodged with their adoption application in the Supreme Court. The judge can then understand how their cultural needs would be met after an adoption order is made. Important aspects of the child's cultural plan can also be added to a child's [adoption plan](#). When an adoption plan is '[registered](#)' in the Court, the details in the plan form part of the legal order and are enforceable. Your organisation may have internal consultation options that can help you, such as a CALD caseworker. For more information, see: [Tips for Working with Culturally And Linguistically Diverse \(CALD\) Communities](#), [Aboriginal Consultation Guide](#), [Open Adoption and Cultural Consultation and Planning and Family Time and Open Adoption](#).

Permanency Coordinators

Consulting with a DCJ permanency coordinator (PC) is a vital step when considering adoption for a child. They will help you explore the child's unique story and circumstances, and what each permanent placement option has to offer to help make a decision about the best case plan goal for a child. PCs and adoption caseworkers can share the tools needed for you to discuss adoption with everyone involved.

For more information, see: [Who Are the Permanency Coordinators](#), [Permanency Planning Overview](#), [Three Permanency Orders Compared](#), and the [Open Adoption Process \(non-Aboriginal children only\)](#).

Adoption Caseworkers

Make sure an adoption caseworker is included in your discussion about open adoption for a child. You can find an adoption caseworker by contacting DCJ or an [Accredited Adoption Service Provider](#) (AASP). Lodging an adoption application in the Court can only be done by DCJ or an AASP. If you work for a PSP service provider who is not an AASP, your agency will need DCJ or an AASP's help to progress the adoption and lodge the application in Court.

A DCJ or AASP adoption caseworker will help you identify if adoption is a reasonable permanency option for the child and support you through every step of the adoption process. As the primary caseworker, it's important you support the child, family and carer, particularly in this initial planning phase, when hopes and fears will rise to the surface for everyone.

When Should Open Adoption be Considered for non-Aboriginal children?

Adoption of a non-Aboriginal child in OOHC should be considered where:

- restoration to either or both parents is not in the best interest of the child
- all relative or kin placement options have been exhausted and/or are not considered appropriate - this includes family finding. See: [Family Connections and Networks - Overview](#)
- guardianship to a family member or to another suitable person (a member of the child's kinship group or their carer) is not in the best interest of the child or young person
- the child wants to be adopted
- the child's parents request their child be adopted
- the carers are the only day-to-day parents the child 'knows'. The carers demonstrate a willingness and ability to meet the child's health, education, social, cultural, emotional

and behavioural development needs, without caseworker support, during their childhood and beyond

- the child is being supported by their carer to develop an identity that incorporates the history and cultures of the child's family
- the child is being supported by their carer to have meaningful relationships with family without casework support
- adoption best reflects the established relationship and attachment between the child and carers, and the carer's commitment to the child
- the trauma the child has experienced means that adoption will help them feel the safety and belonging needed to trust, learn, and develop meaningful relationships with others.

When considering open adoption, always remember:

- casework, like cultural plans, family time plans and Life Story Work, need to be up to date prior to adoption being considered, to avoid delays in achieving permanency
- the best interests of the child, both in childhood and later life, must be the main consideration
- adoption is a service for the child, rather than the right of an adult hoping to adopt them
- the child has to be supported to know and have access to their family and culture
- the child's given name or names, identity, language, and cultural and religious ties should, when possible, be identified and preserved
- the making of an adoption order must be clearly preferable to any other action that can be taken by law.

Examples of When Open Adoption and Requires Further Consideration and Consultation

Adoption will not be the right permanency goal for every child who can't live with their family. In some cases, additional consideration and consultation will be required when making permanency decisions. For example:

- If a child is recently removed and their parents make significant progress toward the goals in their [Family Action Plan for Change \(FAP-C\)](#).
- If a child is settled and thriving with an aunt, uncle or grandparent.

- If a child is settled and thriving with a carer and neither the child nor carer is seeking adoption.
- If a child is part of a sibling group and their siblings do not have a case plan goal of adoption. Once that child is adopted, they are no longer legally related to their siblings. For more information see: [Permanency Planning Overview](#), and [Guardianship or Open OOHC Adoption](#).

Legislative Framework

Open adoption is governed by various legislation and policies. The [Adoption Act 2000](#) [Adoption Regulation 2015](#). The Adoption Act governs all adoptions in NSW.

Other governance that should be considered in adoption include:

- [Child and Young Person \(Care and Protection\) Act 1998](#) (Care and Protection Act)
- [The Code of Practice](#)
- [Permanency Case Management Policy](#)
- [Aboriginal Case Management Policy](#).

Permanency Placement Principles

[Section 10A](#) of the Care and Protection Act sets out the permanent placement principles that dictate the order that permanency options need to be considered for children in NSW. The permanency hierarchy guides decisions about how to achieve a suitable, stable, and loving environment for a child.

Permanency Hierarchy
for Aboriginal and Torres Strait Islander children



Permanency Hierarchy
for non-Aboriginal and Torres Strait Islander children



The permanent placement principles ask you to consider placement options in order, from the least to the most intrusive action for a child and their family. As you move through the order, the principles also ask you to think about whether each option could best meet the needs of the child. In practice, you will need to understand and consider the benefits and limitations of each permanency option to know which option is best for each child.

What is Your Permanency Bias?

We all have values, beliefs, assumptions, and biases that are shaped by our own worldview, developed through our personal and professional experiences. Like lots of other decisions you'll make, considering permanency for a child in OOHC is likely to trigger your assumptions and biases, whether this happens consciously or unconsciously. Your permanency assumptions and biases will have an impact on your decision making and relationships with a child, their family and carer.

To make the best permanent placement decision for each child, you need to:

- Be willing to discuss and explore your permanency assumptions and biases with your colleagues and managers. [Group reflective practice](#) is a great opportunity to safeguard practice by creating a work culture of openness and critique.
- Check these assumptions and biases against current adoption legislation, policy and practice. Do they align? Do they conflict?
- Get help from permanency experts, such as PCs and adoption caseworkers.
- Revisit your assumptions and biases as you gain knowledge and experience in permanency planning for children.

Talking with the Parents, Carers, and the Child

From the time you start working with a child, their family, and carers, you need to be honest and transparent about the possibility of all permanency pathways, including adoption. This approach shares the power of decision making, gives people the information they need to make informed choices, and alleviates some worries about what might happen. Giving everyone involved information about open adoption allows them to explore and discuss their hopes and fears for the future. For more information, see: [Difficult Conversations with Children, Carers and Families – Tips and Guidance](#).

Considering open adoption for a child is likely to be a stressful and uncertain time for the child, their carer, and their family. The support you offer will depend on their unique needs, hopes and fears, strengths, and challenges. You can best support them by:

- Being equipped with knowledge and understanding about open adoption. If a child, carer or parent has a question you can't answer, consult with a PC or adoption caseworker.
- Actively listening and appropriately responding to the worries or challenges the child, their parents or carers are experiencing.
- Helping them understand the worries and challenges of other parties in the adoption process.
- Remaining open and transparent throughout the adoption process. For more information, see: [Relationship Based Practice](#).

Talking with Parents

For parents, the idea of their child being adopted can be incredibly painful. For guidance on supporting parents during an adoption, see: [Supporting a Parent through Open Adoption](#). Parents must be provided with Mandatory Written Information (MWI) when open adoption is being considered. MWI is material that parents must be given so they have a clear understanding about open adoption. The MWI:

- defines key words
- explains what open adoption is
- explains what adoption plans are
- describes the key steps in the process
- informs parents of their rights and where they can get more information
- must be provided to parents at least 14 days before giving consent.

MWI is also a valuable tool for you and can help you facilitate clear conversations with parents and families about open adoption. For more information, see: [Mandatory written information on open adoption for young people aged 12 or more in out-of-home care](#) and [Mandatory written information on open adoption for parents of a child in out-of-home care](#).

Talking with Carer/s

The adoption process can be an emotional time for carer/s as well. The adoption process is often lengthy and can feel invasive for carers. In order to help them be prepared, carers need to attend a Preparation for OOHC Adoption Seminar before an adoption assessment can begin. For more information about supporting carer/s, see: [Supporting a Carer through the Open Adoption Process](#).

Talking with Children

All children need to be spoken with about the idea of being adopted in a developmentally appropriate way. Their thoughts and opinions need to be considered and recorded. For children over the age of 12, they need to give their written consent to be adopted. Before a case plan goal can be changed to adoption, you need to provide them with a copy of the Mandatory Written Information on Adoption: Information for Children and Young People

in Out-of-Home Care booklet. It is important you talk to them about this information and answer any questions they may have. You may choose to provide this information to a child under 12, if appropriate. For more information, see: [Supporting a Child through the Open Adoption Process](#).

Getting Ready through Action

After you have explored and consulted, you may decide that open adoption is the best case plan goal. There are some tasks you should do now to be prepared for the adoption process:

- Review and continue with family finding. Finding and building [family connections and networks](#) should continue through the adoption process.
- Ensure the child's [Life Story Work](#) and cultural plan is up to date.
- If there are any areas that the carer/s require support with to be ready to adopt, consider how you will support them to meet those requirements.

For more information, see: [Open Adoption Cultural Consultation and Planning](#).

Hold a worker's meeting with the adoption caseworker, PC, and your manager to discuss the child's needs, including: [family time arrangements](#) (including all siblings) and the family's views and wishes about permanency for their child. You and the PC will identify any additional outstanding casework tasks and decide who is responsible for them.

It's common for casework at this stage to reveal new information and possibly exciting new opportunities for the child. This could include family finding that identifies significant family members, which might change family time arrangements and a child's cultural plan. Exploring these opportunities might slow down the adoption process. They may stop the adoption process altogether, for example, if family finding reveals the child is Aboriginal. You will play an important role in supporting the child, their carer, and family during this time of change and uncertainty.

Proposing a Case Plan Goal of Adoption for a non-Aboriginal Child

Before you propose a case plan goal change to DCJ, you will need to:

- Meet with the adoption case worker and both the child's parents, all siblings (where possible), and other significant family members. You will let the family know that open adoption is being considered for the child, explain the process and implications as well as explore their worries and hopes. You must provide the parents with the MWI as well as other information and resources, such as:
 - [Reviewable decisions following application to adopt.](#)
 - Legal Aid NSW: [Are there plans for your child to be adopted.](#)
 - [Information for siblings about their brother or sister in care who is being adopted.](#)
 - Encourage participation from the parents using family-led decision-making processes. For insights about the importance of listening, see this [TedTalk](#) from Ernesto Sirolli.

For more information, see: [Sharing Risk and Shifting Power in Family Group Conferencing and the Alternative Dispute Resolution practice area.](#)

If it's appropriate to move to the next stage, your PC will hold a permanency consultation with you, your manager, the adoption caseworker, and the DCJ delegate (delegate is the Child and Family District Unit (CFDU) Manager Casework for non-Aboriginal children).

- A case planning meeting will then be held with all parties including the child (where age-appropriate), family, significant others, and carers to discuss the proposed change to the child's case plan goal. You'll then prepare and submit a new case plan with the goal of adoption, to be approved by the DCJ Manager and DCJ delegate.

Once DCJ has approved the case plan goal change, you will update the case plan and complete any outstanding tasks, including updating the cultural support if applicable. You can then move on to the second step of the open adoption from OOHC care process, the application step. For more information, see: [Open Adoption Process \(non-Aboriginal children only\).](#)