

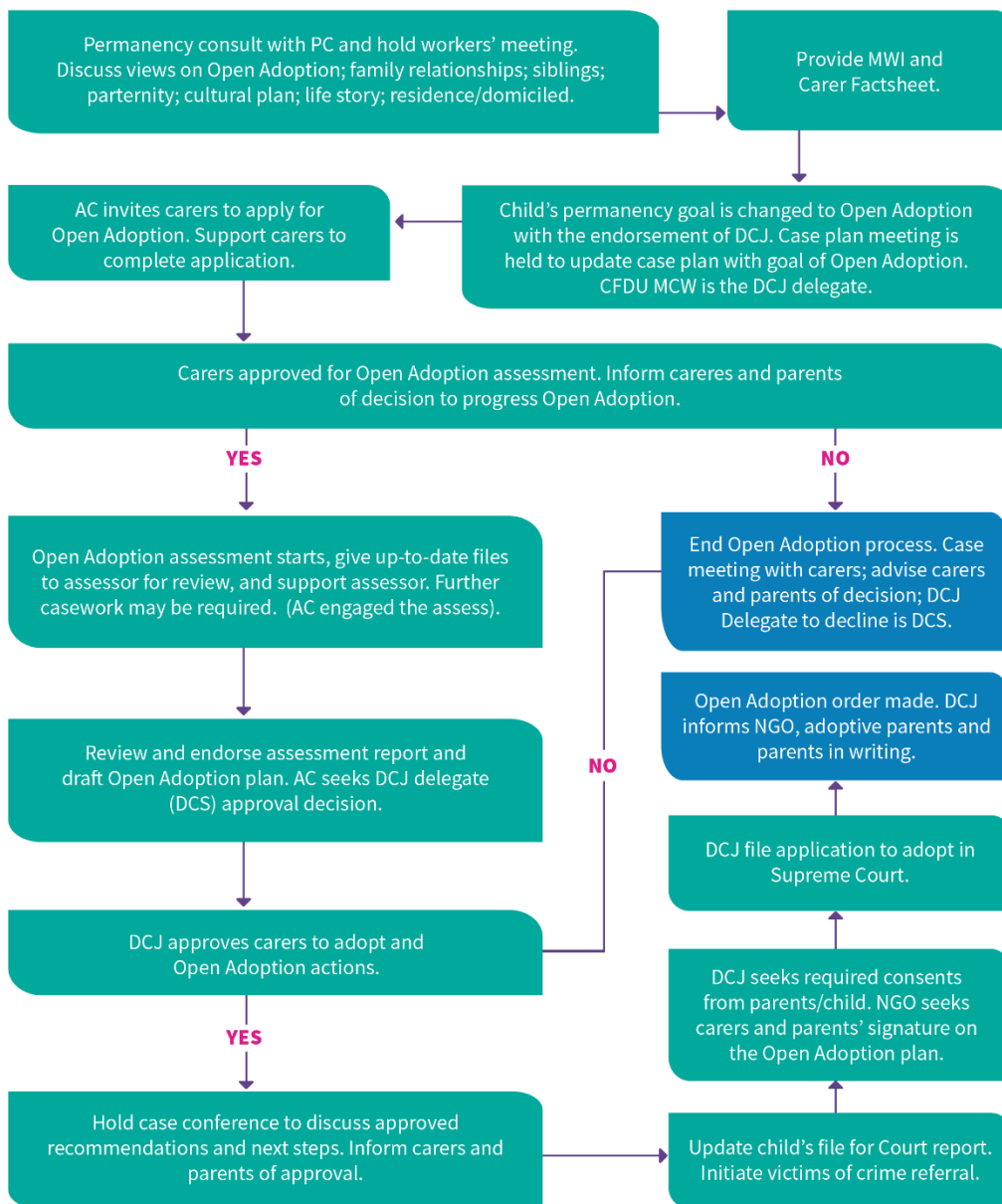
# Open Adoption Process

## (Non-Aboriginal Children Only)

Achieving adoption for a child or young person (child) is a process that takes time and requires Permanency Support Program (PSP) service providers, the Department of Communities and Justice (DCJ) and the Supreme Court to work collaboratively.

This fact sheet offers a summary of your role in the adoption process. For more specific details about your and other roles, see: [Open Adoption Process Overview NGO Case Managed](#). Below is a flowchart of the out-of-home care (OOHC) open adoption process for PSP Service Providers for non-Aboriginal and Torres Strait Islander children.

## Open Adoption Process for Non-Aboriginal Children



AC = Adoption Caseworker CFDU = Child and Family District Unit DCJ = Department of Communities and Justice  
DCS = Director of Community Services MCW = Manager Caseworker MWI = Mandatory Written Information PC = Permanency Coordinator

Information about process for Aboriginal and Torres Strait Islander children can be found in the factsheet [Open Adoption and Aboriginal Children](#).

## Legal Aid

Legal Aid provides mediation at any time through the adoption process for parents or family members who are eligible for Legal Aid. This can be a helpful resource when they are worried about how they will remain connected with the child or changes to the child's name after adoption. There is more information on the [Legal Aid Website](#).

## Step one: Getting Ready

Getting ready is the first step in [the six steps to open adoption from OOHC](#). This step includes:

- Consulting with other workers about what goal is in the best interests of the child.
- Providing the Mandatory Written Information (MWI) to the child and their family
- The carer/s attending the [Preparation for OOHC Adoption Seminar](#).
- DCJ approving the case plan goal change.

For more information about this stage, see: [Case Planning in Out-of-Home-Care and Considering Open Adoption](#)

## Step two: Application

Once the case plan goal of adoption has been approved, the adoption caseworker will invite the carers to formally apply to adopt the child in their care, by requesting they complete an adoption application package. If no significant risks or worries are identified in the completed package, including the probity, suitability, and referee checks (for carers and household members over the age of 16 years), it will be submitted to the DCJ Delegate (MCW) in Open Adoption & Permanency Services (OAPS) for approval to proceed to an adoption assessment. You will update and complete any outstanding casework and send your files to your adoption caseworker, who will forward them to the adoption assessor.

## Step three: Assessment

During this step the adoption assessor will complete the adoption assessment, draft an adoption plan (with a cultural component). This is also the stage that if exceptional circumstances exist, out of guidelines financial requests should be identified.

These should all be completed by the same practitioner and be independent of case management. Using the same practitioner ensures children and families don't need to re-tell their stories and wishes to multiple people unnecessarily.

Assessments reports can be done by an [Accredited Adoption Service Provider \(AASP\)](#), DCJ, or PSP service provider caseworker, an independent adoption assessor or another suitability qualified person employed or nominated by an approved organisation.

You will support the adoption assessor as they complete the assessment and draft the adoption plan. You may have to do more casework during the assessment, such as searching for parents or family members. If the assessment report and adoption plan are endorsed by your agency and DCJ or the AASP, your adoption caseworker will draft a briefing note seeking approval from the DCJ delegate to:

- commence adoption action
- approve the carer's suitability to adopt the child in their care
- obtain the Minister's consent (where the child is under 12 years or is otherwise unable to consent)

See the [Open Adoption Process Overview NGO Case Managed](#) and [Open Adoption and Aboriginal Children](#) for the correct delegations and extra steps that need to be taken when the child is Aboriginal.

For more information about the assessment step, see: [Open Adoption Assessment Guidelines](#), [Open Adoption Assessment Template – Single Child Assessment](#), [Family Time and Open Adoption](#) and the DCJ fact sheets [What is an Adoption Plan](#), [Guide to drafting an adoption plan](#), [Registration of Open Adoption Plans](#) and [Guide to drafting a registered adoption plan](#).

## If Adoption is not Recommended

If the adoption assessment recommendation is to not proceed with adoption, you will consult with your manager, permanency coordinator and relevant DCJ or AASP managers to discuss the assessment outcome, determine if additional casework is required to resolve issues, and consider the child's future case plan goal.

You will also need to:

- Give the carer an opportunity to respond to the issues raised, if appropriate.

- Prepare a briefing note to seek the DCJ delegate's approval to decline the adoption.
- Advise the carers, child, and parents of this decision and give them a redacted copy of the assessment.

If the DCJ delegate declines to approve adoption for a child and the carer is not satisfied with this decision, they are able to request an internal review. More information about [reviewable decisions about adoption applications](#) can be found on the DCJ website.

For more information, see: [Guide to Redacting OOHC Open Adoption Assessment Reports](#) document, [Letter to the Carers about the Adoption Decision](#) document, and [Letter to the Parents about the Adoption Decision](#) document.

## Step four: Preparing for Court

If the adoption assessment recommendation to proceed with adoption is approved, you will consult with your manager, relevant DCJ or AASP managers, the carers, child, and family to discuss the:

- assessment recommendations (including giving the carers and family a redacted copy of the assessment)
- draft adoption plan
- formal adoption consents
- outstanding casework tasks
- adoption assessor's next steps.

## Legal Audit

There are two pathways available to PSP providers to access victims support for children OOHC:

1. Completing a [recommendation for application to Victims Services form](#) to the Child and Family District Unit (CFDU). The CFDU will review the recommendation and evidence and advise if the application can proceed.  
Making a [referral for a legal audit](#). Children and young people who are the subject of a Final Order allocating parental responsibility to the Minister for a period of 2 years or more, and are aged 15 years or older, or will leave care in less than 3 years, must be referred to DCJ Legal Services for a legal audit of their file. For more information, see: [Victims of Crime](#) or the [Exiting OOHC page](#).

## Supporting the Court Application

To support the court application, you may need to work with the DCJ legal team to prepare court documents such as the:

- [section 91 court report](#)
- adoption plan
- The referee affidavits
- the Delegate and prospective adoptive parent/s affidavits.

Practitioners completing the s91 Court Report must agree to [the expert witness code of conduct](#). You will also need to arrange registered counselling and consent for birth parents and children over 12 years old.

It is at this stage that a carer becomes known as a ‘prospective adoptive parent’. You and your adoption caseworker will work together to make sure:

- a Court Report is completed by the adoption assessor
  - the adoption plan is finalised and signed by all the relevant parties
  - all formal adoption consents are obtained, or evidence is collated to request the Supreme Court dispense with consent (not require consent)
  - a referral is made to OAPS or the AASP team, for the preparation of the court application
  - updated probity checks are completed for the carers, along with their affidavit for the Court
  - referees nominated by the carers prepare an affidavit for the Court.
- OAPS or the AASP legal team will:
    - prepare the court application
    - provide a copy of the of the signed adoption plan to the carers, child and family
    - review and settle documents
    - sign and file the court application with the Supreme Court.

For more information, see: [Open Adoption and the Court](#). For more information on the consent process for children and parents, see: [Supporting a Child through the Open Adoption Process](#) and [Supporting a Family Through the Open Adoption Process](#).

## Step five: Going to Court

- You and the adoption caseworker will work together to make sure everyone knows the court application has been filed in court. The child's parents will be served a copy of the Notice of Appearance documents, indicating the application has been filed at court. They will also need to receive Legal Aid brochures advising how to file a Notice of Appearance should they wish to be heard at court (contest the application. A affidavit of service will need to be prepared and filed.
- Your adoption caseworker will let you and the prospective adoptive parents know when the application has been referred to a judge and of the court dates.
- Parents and families have the right to contest (disagree with) an adoption application. If the adoption is contested, the birth parents will be served with court documents. you will help OAPS or the AASP support everyone during contested court proceedings.

The Supreme Court judge will usually make a decision about an adoption order application in chambers. If the child and prospective adoptive parent request to be present when the adoption order is made, the judge will make the decision in the court room. For more information see: [Supporting a Parent Through the Open Adoption Process](#), [Supporting a Carer Through the Open Adoption Process](#), and [Supporting a Child Through the Open Adoption Process](#).

## After an Adoption Order is Made

The adoption agency who lodged the court application will notify your agency and all the relevant parties about the adoption order being made. The adoptive parents and family will be notified in writing. The Court will also notify Births Deaths and Marriages (BDM) who will issue the child a post-adoptive birth certificate and [integrated birth certificate](#). The original birth certificate with details of the child's birth parents can no longer be used for legal purposes. Any approved financials are managed by DCJ.

- You will:
  - notify other agencies as appropriate (for e.g., NSW Dept of Education)
  - update the carer register, ChildStory, legal placement, and financial records
  - follow up on any agreed or court-ordered support to the relevant parties.

For more information about birth certificates for adopted children, see: [Foundations of Open Adoption](#) and [Integrated Birth Certificates](#).

## Pausing the Adoption Process when Unexpected Things Happen

Sometimes unexpected things happen during the adoption process. For example:

- paternity testing may reveal a father who does not have a relationship with the child
- carers may experience a death in their immediate family or
- the child may develop physical or mental health conditions that require additional supports.

When unexpected things happen, you can ask your adoption caseworker to pause the adoption process for three months, to allow further casework and support. An adoption can be paused three times, for three months each time. After this, it must be filed down and is no longer active. If there is a significant change in circumstances once it becomes inactive, carers can reapply to adopt, which will begin the process again.

## How can I Partner to Support the Open Adoption Process?

OOHC open adoption is a permanent placement option that can provoke strong views and differing opinions. A successful OOHC open adoption requires effective and meaningful partnerships with everyone involved.

## Working in Partnership with DCJ or an AASP

An important part of your role in working through the adoption process is to partnership with DCJ or an AASP and other professional colleagues.

Effective partnerships require you to:

- understand your role and responsibilities in the process,
- respect the role, expertise and understanding that others bring to the process
- be responsive to the needs and requests of the other parties
- share information openly
- ask for help and advice
- find strategies to discuss complex issues where there are different opinions including group supervision.

For more information, see: [Group Reflective Practice](#).

## Working in Partnership with Children, Carers, and Families

The OOHC open adoption process can highlight the power imbalance that exists between your agency, DCJ or AASP and a child, their carers, and their family. You help make a decision that has the potential to change a child's legal status permanently. It's essential you keep this in mind throughout the open adoption process.

The OOHC open adoption process is also likely to impact on those involved very differently, for example:

- the child may feel torn between the wishes of their family and prospective adoptive parents
- the child's family may feel vulnerable to being cut off from their child after an adoption is finalised
- the child's carers may worry about having to participate in another assessment and having their caring capacity scrutinised.

You can partner with a child, family, and carers during the OOHC open adoption process by:

- being equipped with knowledge about the process
- actively listening and appropriately responding to the worries or challenges they are experiencing
- helping them understand the worries and challenges of each other
- remaining open and transparent throughout the adoption process. Consulting with your adoption caseworker if queries/questions arise and you are unsure how to answer.