

# Is adoption the right option?

Information for parents who are considering adoption for their child



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## What is adoption?

Adoption establishes a permanent legal relationship between a child and their adoptive parent/s, and dissolves the legal relationship with the birth parent/s. Adoption also transfers the legal rights and responsibilities of parenthood from a child's birth parent/s to their adoptive parent/s.

The *Adoption Act 2009* and the *Adoption Regulation 2020* guides how adoption services are provided in Queensland.

The Department of Child Safety, Youth and Women is the only authority to arrange the adoption of children in Queensland. It is unlawful for anyone else to state that they can arrange a child's adoption in Queensland.

If a parent consents to their child's adoption, the Childrens Court will decide whether all the legal requirements are met so that an adoption order can be made for the child. Birth parents do not need to attend Court proceedings.

A child can be adopted only by a person who is eligible and assessed as a suitable adoptive parent under the *Adoption Act 2009*. A birth parent's preferences about the sort of family they would like their child to be placed with are considered when selecting a suitable adoptive parent/s for the child.

Once an adoption order is made, the Registry of Births, Deaths, Marriages and Divorces issues an amended birth certificate for the child, and the child's adoptive parent is recorded as the child's parent. The original birth certificate can no longer be used for official purposes.

## Privacy

All contact that birth parents or expectant parents have with Adoption Services or the department's child safety service centres is confidential and treated with sensitivity.

Parents may make anonymous enquiries and receive information about the adoption process.

If a parent decides to seek adoption for their child, the department will require information about both of the child's parents, other family members and the child.

Under the *Adoption Act 2009*, the department is required and authorised to collect information needed to provide services to a parent who is considering adoption for their child. All information provided by a parent considering adoption for their child will be managed in accordance with the Information Privacy Principles described in the *Information Privacy Act 2009*.

The department may be required to provide information to a court or tribunal or other persons as authorised under the *Adoption Act 2009*.



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## Options for a child's care

If birth parents decide they are unable to parent their child, adoption is only one option for the care of their child.

Making decisions about whether adoption is the best option for their child can be a difficult process. It is normal for a birth parent to experience a range of emotions, including feelings of grief and loss, when deciding whether or not they can care for their child.

Birth parents considering the future care of their child are encouraged to consider all available options and discuss alternatives with family members and people in their support group. Family, friends or a counsellor may help birth parents find the support they need to care for their child.

Relatives, such as the child's grandparents, may offer to care for the child. Making decisions about the child's upbringing, financial support and parental contact can be decided between the relative and the child's parents.

If a decision is made for a relative to care for the child, parents may wish to formalise this agreement by applying for a Parenting Order or Residence Order through the Family Court of Australia. Parents may need to make these arrangements through a solicitor.

## Pre-consent counselling

Under the *Adoption Act 2009*, parents must be provided with information about the adoption process, receive pre-consent counselling and a copy of an adoption consent form and a revocation of adoption consent form, before they consent to their child's adoption. Information must be explained to birth parents and provided in writing.

If a birth parent consents to their child's adoption, they will have contact with at least two departmental officers about the adoption during the consent process. A departmental counsellor, or other counsellor arranged by the department, will provide pre-consent counselling and a second officer will witness birth parents signing the form consenting to their child's adoption.

Pre-consent counselling usually takes place over a number of interviews. This is to ensure that parents have enough time to consider all of their options, including adoption, for securing permanent care for their child.

Parents of an Aboriginal or Torres Strait Islander child may have counselling provided by an appropriate Aboriginal or Torres Strait Islander person that is respectful to tradition or custom.

During pre-consent counselling, birth parents are asked to provide personal information about themselves, their family and their family's health which may be provided to the child and the adoptive parent, should the adoption proceed. If a parent consents to their child's adoption, the parent may be asked to provide further information at a later time.

If a birth parent is under 18 years of age, Adoption Services is required to arrange for a qualified person to assess the birth parent's capacity to give consent.

If it appears that an adult birth parent (over 18 years of age) has impaired decision making, Adoption Services will apply to the Queensland Civil Administrative Tribunal for a determination about the parent's capacity to consent.

## Adoption care agreement

A parent may wish to enter into an adoption care agreement with the department, for their child to be placed with an approved foster carer, while they receive pre-consent counselling and information about adoption.

The birth parent continues to be the child's guardian after the child is placed under an adoption care agreement, and can arrange to see the child and make decisions about the child's care. Birth parent/s can end the adoption care agreement by providing two day's notice in writing.

If birth parents proceed with the adoption of their child, the child remains with the approved foster carer until they are placed with a prospective adoptive parent/s.

Adoption Services cannot enter into an adoption care agreement, or continue an agreement that has been entered into with one birth parent, if the other birth parent does not wish for the child to be cared for under an adoption care agreement.

## The child's name

A child's birth must be registered within 60 days of birth, and the child's name on the birth registration form is their legal name until an Adoption Order is made by the Childrens Court.

When an Adoption Order is made, the Childrens Court may also make an order about whether the child should have the same surname as the adoptive parent/s. The Court can also consider whether a child's wellbeing and interests would be best met by keeping their existing name given by the birth parent and registered at the time of birth, or by having a new name given by the child's adoptive parent/s.

There are a number of matters the Childrens Court must consider in making an order about a child's name, including the child's right to preserve their identity.

## Consenting to adoption

For a child to be adopted, both the child's mother and father are required to consent to the adoption.

A birth parent cannot sign the adoption consent form until at least 30 days after the birth of their child and at least 14 days after information about the adoption has been provided and pre-consent counselling completed.

Information and counselling about options for a child's care or about consenting to a child's adoption can be provided separately to each birth parent, or birth parents may wish to have joint interviews with the counsellor.

If a child's mother engages with Adoption Services to consider consenting to adoption and the father is not involved in the initial contact, Adoption Services must take reasonable steps to identify and locate the child's father. This is to ensure he has the opportunity to participate in decisions about the child's adoption, or other long-term arrangements for the child's care.

After identifying and locating the child's birth father, Adoption Services is required to inform him about consenting to the adoption, establish whether he is the child's father, or how he can apply for a parenting order for the child through the Family Court of Australia.

In some circumstances, the child's birth mother will be able to solely make decisions about the child's long-term care, and Adoption Services will not be required to contact the child's birth father about the adoption.

Circumstances include whether the child was conceived as a result of a criminal offence committed by the birth father or where there would be an unacceptable risk of harm to the child or birth mother if the birth father was made aware of the child's birth or adoption.

In instances where it is not possible to obtain both birth parent's consent, Adoption Services may apply to the Childrens Court for an order dispensing with the need for that birth parent's consent so the child's adoption can proceed.

After a birth parent consents to their child's adoption, or the need for a birth parent's consent is dispensed with by the Childrens Court, the Chief Executive of the Department of Child Safety, Youth and Women becomes the child's guardian and has custody of the child. Unless a parent revokes their consent within the 30-day revocation period, the Chief Executive continues to be the child's guardian until an Adoption Order is made.



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## Revoking a consent

After signing the adoption consent form, a birth parent has 30 days to revoke the consent. To revoke the consent, the birth parent must notify Adoption Services in writing by completing a revocation of adoption consent form, or by writing a letter to the department.

If the birth parent was responsible for the child before they gave consent, they will resume full legal parental responsibility from the date the revocation form or written notice is received. This means that the birth parent must make immediate arrangements to care for their child. Adoption Services works with birth parents to help them plan for the return of their child to their care.

If the child was subject to a child protection order before a birth parent gave consent, this order will still be in place if the parent revokes their consent to adoption, and the child will not automatically be returned to the birth parent's care.

## Expressing preferences for a child's placement when giving consent

If a birth parent proceeds with adoption of their child, they can express preferences about the type of adoptive family they would like their child to be placed with. Preferences may include religion, family demographics, cultural background, age and lifestyle.

They can also express preferences about having ongoing contact, either directly or through non-identifying correspondence with the child and the adoptive parent/s.

When selecting the most suitable adoptive parent/s for the child, Adoption Services considers the preferences expressed by the birth parent, the child's particular needs and the characteristics of people assessed as being suitable to be adoptive parents. This may also include a preference about whether a child is placed with a single person, heterosexual couple or same-sex couple.

## Providing information, support and counselling to a child

If a child is able to express their view about their adoption, they must receive information and counselling to help them understand adoption. This includes information about the adoption process, and options other than adoption for their long-term care. Information and counselling must be provided in a way that is appropriate for the child's age and ability to understand.

For an Aboriginal or Torres Strait Islander child, counselling may be provided by an appropriate Aboriginal or Torres Strait Islander person that is respectful to tradition or custom.

The Childrens Court must consider the child's views before deciding whether or not to make an adoption order.



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Adoption Services may appoint a qualified person, such as a social worker or lawyer not employed by the department, to support the child during the adoption process. If the Childrens Court considers it necessary and in the child's best interests, the court may order that the child is separately represented by a lawyer during adoption proceedings.

## Adoption Orders

After a child's birth parents have consented to the adoption, or the need for a birth parent's consent has been dispensed with by the Childrens Court, the Court may make an interim order placing the child with their prospective adoptive parent/s for at least 12 months.

During this 12-month period, custody of the child is given to the prospective adoptive parent/s. The Chief Executive of the Department of Child Safety, Youth and Women retains guardianship of the child and is responsible for undertaking post-placement assessment and providing support to the child and prospective adoptive parent/s during the interim order.

After the 12-month interim order, the Childrens Court may make a Final Adoption Order in which the adoptive parent/s becomes the child's only legal parent/s.

An interim order is not required before a Final Adoption Order where a child is being adopted by a person or couple who have been the child's approved foster carer for at least one year.

Once the Childrens Court makes an interim order or a Final Adoption Order, the child cannot be returned to the birth parent.

Birth parents are not generally required to attend Childrens Court proceedings.

## Contact after an adoption order is made

Prospective adoptive parent/s and birth parent/s can work with Adoption Services to reach an agreement about the level of contact they may have with each other, and any other matters that affect the child's wellbeing, up until the child turns 18 years of age.

When an agreement is reached, the arrangements are set out in an adoption plan. Although an adoption plan is not legally enforceable and will not alter the adoptive parent's role as the child's only legal parent, it details the type and frequency of contact the adoptive parent/s and birth parent/s agreed to, at the time the Adoption Order was made. Even if direct contact is not planned, it can detail the parties' agreement to exchange non-identifying information through Adoption Services after the Adoption Order is made.

## Access to identifying information after an adoption order is made

An adoptive parent/s, an adopted child (with their adoptive parent's agreement) or a birth parent/s can apply to Adoption Services for identifying information before the child turns 18 years of age.

Identifying information may be released only if there is no court order in place restricting the release of identifying information, and written consent is provided by the child's adoptive parent/s and birth parent/s. There is no legal obligation for either party to give this agreement.

Adoption Services must also consider the adopted child's views and whether the release of information is in the child's wellbeing and best interests.

Adoption Services may assist the birth parent/s and adoptive parent/s to develop an adoption plan that includes consent to the release of identifying information before the child turns 18 years of age.

Once the adopted child turns 18 years, both the adopted adult and the birth parent are entitled to receive identifying information about each other.

## Legal advice

Birth parents who want legal advice about adoption and the effects of consenting to their child's adoption can contact Legal Aid Queensland or a solicitor at a law firm in their local area. Fees will apply for services provided by a solicitor at law firms in the local area. Legal Aid Queensland may be able to provide services at no cost and can be contacted by telephone on **1300651188**. Information about Legal Aid Queensland is also available at [www.legalaid.qld.gov.au](http://www.legalaid.qld.gov.au)

## Interpreting and translating services

Birth parents who need interpreting help or to have information translated, can call the Australian Government's Translating and Interpreting Service on **131 450**. Information about the Translating and Interpreting Service is also available at [www.tisnational.gov.au](http://www.tisnational.gov.au)

## Further information

Birth parents or expectant parents who want more information about consenting to their child's adoption can contact Adoption Services. Adoption Services can also assist with referrals to information and support services in the parents' local area.

### Department of Child Safety, Youth and Women

#### Adoption Services

Address: Level 11, 127 Creek Street  
Brisbane Qld 4000

Postal address: Locked Bag 3405  
Brisbane Qld 4001

Phone: 3097 5100  
1800 647 983  
(free call within Queensland)

Email: [ads@csyw.qld.gov.au](mailto:ads@csyw.qld.gov.au)

Website: [www.qld.gov.au/adoption](http://www.qld.gov.au/adoption)



Jack Hollingsworth