

GUIDE TO DRAFTING AN OPEN ADOPTION PLAN

Adoption Act 2000 (NSW) Section 46 – 51
Adoption Regulation 2015 (NSW) Clause 75 & 76

This guide is to be read in conjunction with the Fact Sheet 'Registration of Open Adoption Plans'.

What is an open adoption plan?

An open adoption plan supports a child to remain connected to their birth family and cultural origins.

An open adoption plan is a plan agreed on by two or more of the parties to an adoption. The parties to an adoption are the child(ren), the proposed adoptive parents, a birth parent who has given consent to their child(ren)'s adoption, and may include the Secretary of the Department of Family and Community Services (DCJ) or the Principal Officer of an Accredited Adoption Service Provider. A birth parent who has not given consent to the child(ren)'s adoption but who has agreed to the open adoption plan is to be treated as a party to the adoption and open adoption plan for the purposes of sections 46 - 51 and section 90 of the *Adoption Act 2000* ("The Act").

What can be included in the open adoption plan?

The arrangements for contact between a child and their birth family including the exchange of information in relation to the child's medical background, development, important life events, the ways in which a child will be assisted to develop a healthy and positive cultural identity, and how they will maintain a connection with that heritage.

The open adoption plan must contain:

- a) a statement of the means and nature by which contact between the child and the child's family and siblings is to be maintained, including people authorised to have contact with the child, purposes of the contact, frequency of contact and location of contact,
- b) details of the ways in which the child is to be assisted to develop a healthy and positive cultural identity and of ways in which links with the child's cultural heritage are to be fostered,
- c) a description of the type of information to be exchanged under the plan,
- d) a statement of the frequency of exchange of information,
- e) details of provision to be made for any financial and other assistance arrangements that the Secretary has agreed be included in the plan under section 201 (2) of the Act,
- f) a statement of the period for which the plan is to have effect.

For adoptions of children in out of home care, DCJ is required to sign all open adoption plans as DCJ is responsible for post adoption payments and support (with the exception of matters managed by an agency with delegated parental responsibility).

How is an open adoption plan developed?

An open adoption plan should be negotiated between the child(ren), proposed adoptive parents and the birth family. Any expressed wishes by the child(ren) or birth parents must be taken into consideration. The open adoption plan must suit the needs and best interests of the child(ren). The open adoption plan should be realistic and where possible have been trialled throughout the planning phase.

It is important to remember that an open adoption plan should reflect the individual circumstances of the particular case and tailored towards those individual circumstances. Consideration should also be given to whether separate maternal and paternal open adoption plans should be prepared.

What happens to the open adoption plan?

The open adoption plan is filed with the child(ren)'s adoption application at the NSW Supreme Court. Pursuant to section 50 of the Act, an open adoption plan may be registered. An open adoption plan that is registered has effect, on the making of the adoption order, as if it were part of the order, thus being enforceable.

How is an open adoption plan formally reviewed?

The open adoption plan itself, depending upon how it is drafted, may have inherent flexibility to cater for different events which may arise over time. The Court has the power to review an open adoption plan, if a party to the plan applies to the Court asking for a review.

- Please use the following format when drafting an open adoption plan.
- Please **remove** any references in **blue**, **red** or sections in **black** that are not applicable to the child(ren)'s specific needs. Ensure all instructions including this box are removed off the final document.
- Please **remove** the Guide to Drafting an Open Adoption Plan document.

MATERNAL / PATERNAL ADOPTION PLAN

This plan is in relation to contact arrangements between:

(delete or add any persons as necessary)

- //Child's Full Legal Name// (“//First Name//”), //date of birth//
- //Child's Full Legal Name// (“//First Name//”), //date of birth// (delete/add as needed)
- //First Name// and //First Name//, proposed adoptive parent(s) (Add surname where appropriate)
- //Full Legal Name// (“//First Name//”), mother
- //Full Legal Name// (“//First Name//”), father or putative father
- //Full Legal Name// (“//First Name//”), sibling or maternal/paternal half sibling; and
- //Full Legal Name// (“//First Name//”), maternal/paternal grandparents/aunt/uncle.

The parties to the adoption and this adoption plan are the subject child(ren), proposed adoptive parent(s), a birth parent(s) who has/have given consent to the child(ren)'s adoption, the Secretary, NSW Department of Family and Community Services or the appropriate Principal Officer (delete if not applicable). A birth parent who has not given consent to the child(ren)'s adoption but who has agreed to the adoption plan is to be treated as a party to the adoption and adoption plan for the purposes of sections 46 -51 and section 90 of the *Adoption Act 2000*.

It is agreed by the signatories to this plan, that this adoption plan is not to be deemed as giving consent for the adoption of //child(ren)'s first name//. (delete if the birth parent(s) relevant to this plan has given consent)

[Where matter is agreed to be registered include the following statement]

The parties, in consultation with //birth mother's first name// and/or //birth father's first name// have agreed to seek registration of this adoption plan.

PURPOSE OF THE PLAN:

It is acknowledged that these mutually agreed arrangements will support //child(ren)'s first name// with his/her/their development and assist him/her/them to be connected with and build on his/her/their knowledge of his/her/their birth family and his/her/their sense of identity. Birth family contact is an opportunity for maintaining connections between //child(ren)'s first name// and members of his/her/their birth family.

It is envisaged that the current arrangements will continue until //child(ren)'s first name// reaches //insert// years of age.

THE ARRANGEMENTS FOR CONTACT:

[The history of birth family contact is to be detailed in the Affidavit of Delegate/Principal Officer or Adoptive Applicant. A summary is not required to be included in this plan].

It is recognised that the nature of contact should be structured in such a way that will best meet //child(ren)'s first name//'s needs, taking into consideration at all times, his/her/their age, stage of development and any expressed wishes.

(a) Face-to-face contact:

Outlined under each of the following sub-headings is how face-to-face contact between //child(ren)'s first name//s and each birth family member will be maintained.

[Detail the: frequency; location; duration; who will attend; how contact will be arranged; and any supervision requirements. Contact can be as flexible or as prescriptive as is required in the particular circumstances. If a plan is to be registered, the provisions of the plan need to be clear and specific].

[Where there are no plans for contact consider including the following statement]

//Birth family member(s) name// has indicated that they do not wish for face-to-face contact with //child(ren)'s first name// at this time. Should they request contact at any time in the future, then face-to-face contact will occur as agreed between //child(ren)'s first name//, //PAP first name//, //PAP first name// and //Birth family member(s) name//.

(i) Birth Parents/Mother/Father

[Where child's birth mother or father has not had face-to-face contact for a significant period consider including the following statement]

//PAP first name// and //PAP first name// are supportive of contact occurring between //child(ren)'s first name// and //Birth mother first name// and/or //Birth father first name//. Contact arrangements will take into account //child(ren)'s first name//s age, development and expressed wishes.

//Birth mother first name// and/or //Birth father first name// may be asked to meet with //PAP first name// and //PAP first name// and/or provide some basic information about themselves including photographs. //PAP first name// and //PAP first name// can use this to assist //child(ren)'s first name// know about //Birth mother first name// and/or //Birth father first name//. Contact will occur as agreed between //PAP first name//, //PAP first name//, and //Birth mother first name// and/or //Birth father first name//.

[Where child's paternity is unknown, a statement must be included to outline what would occur should a putative father request contact and/or information. Consider including the following statement.]

//PAP first name// and //PAP first name// are supportive of //child(ren)'s first name// having information about his/her/their father should paternity be confirmed. Should a putative father come forward in the future he may be required to undergo DNA testing prior to any contact occurring. Contact arrangements will take into account //child(ren)'s first name//s age, development and expressed wishes. The father may be asked to meet with //PAP first name// and //PAP first name// and/or provide some basic information about himself including photographs. //PAP first name// and //PAP first name// can use this to assist //child(ren)'s first name// know about his/her/their father. Contact will occur as agreed between //child(ren)'s first name//s, //PAP first name//, //PAP first name// and the father.

[Where matter is agreed to be, or likely to be registered, include the following statement]

Failing these arrangements, contact is to occur on the //number// //day of week// of //months// at //time// for //number// hour/s at //insert location//.

For example: Failing these arrangements, contact is to occur on the third Saturday of March, June, September and December at 11.00am for 1 hour at Centennial Park, Sydney.

(ii) Siblings

[Include the following statement in all plans and detail how contact with the siblings will occur if known]

Should //child(ren)'s first name// have any siblings born following the making of an adoption order //PAP first name// and //PAP first name// agree to support and facilitate contact between them.

[Where siblings have not had face-to-face contact for a significant period consider including the below statement]

//PAP first name// and //PAP first name// are supportive of contact occurring between //child(ren)'s first name// and //sibling(s) first name//. Contact arrangements will take into account //child(ren)'s first

name//’s age, development and expressed wishes. //sibling(s) first name// may be asked to meet with //PAP first name// and //PAP first name// and/or provide some basic information about themselves including photographs. //PAP first name// and //PAP first name// can use this to assist //child(ren)’s first name// know about //sibling(s) first name//. Contact will occur as agreed between //child(ren)’s first name//, //PAP first name//, //PAP first name//and //sibling(s) first name//.

(iii) Significant Others

(b) Telephone and electronic communication:

Outlined under each of the following sub-headings is how telephone and/or electronic communication between //child(ren)’s first name// and their birth family members.

[Detail the: frequency and type of contact e.g. telephone, email, Facebook, Skype etc. Contact can be as flexible or prescriptive as is required in the particular circumstances.]

[Where the child is too young for telephone/electronic contact include the following statement]

Due to //child(ren)’s first name//’s age telephone contact is not an appropriate method of contact at this time. It is recommended that telephone contact between //child(ren)’s first name// and //Name//, occur in the future when //child(ren)’s first name// is older and is able to communicate more clearly. This should occur as agreed between //PAP first name// and //PAP first name// and //Name//. Telephone calls between //child(ren)’s first name// and //Name// will be facilitated by //PAP first name// and //PAP first name//.

(i) Birth Parents/Mother/Father

(ii) Siblings

(iii) Significant Others

(c) Information exchange including photographs/gifts etc:

Outlined under each of the following sub-headings is how information will be exchanged between //child(ren)’s first name// and their birth family members.

[Detail what each participant is agreeing to send, receive and/or reply to including the type of information being exchanged and frequency eg. school reports, updated health/medical issues, information about significant events, exchange around birthdays Christmas period and school holidays.]

[Include the following statement where relevant]

//PAP first name// and //PAP first name// agree to contact the //Birth mother first name// and/or //Birth father first name// directly or via an agency in the event of //child(ren)’s first name// sustaining a serious illness, injury or in the event of death.

(i) Birth Parents/Mother/Father

(ii) Siblings

(iii) Significant Others

IDENTITY AND CULTURAL HERITAGE:

[Detail the cultural background of the child(ren), proposed adoptive parent(s) and each birth parent. Outline the ways in which the child(ren) will be assisted to develop a healthy and positive cultural identity and how they will maintain a connection with that heritage. This is not limited to, but may include: contact with significant family members and other people of this heritage, education, cultural activities, food, language, music, art, dress style, totems or cultural practices specific to the child’s family. Include details of what actions will be undertaken and by whom.]

[For Aboriginal or Torres Strait Islander children, these provisions should be made after consultation with a local, community-based and relevant Aboriginal or Torres Strait Islander organisation.]

RELIGIOUS UPBRINGING: (delete if not applicable)

[Detail the religious background of the child(ren), proposed adoptive parents and each birth parent. Outline the ways in which the child(ren) will be assisted to develop a healthy and positive religious identity. Include details of what actions will be undertaken and by whom.]

FINANCIAL ASSISTANCE: (delete if not applicable)

[Detail any contingency or specific financial arrangements that will support the child(ren)]

[For grandfathered OOHC Adoptions only - detail any financial assistance that the proposed adoptive parents require on the making of an adoption order (any financial support is to be pre-approved by way of a financial submission by the relevant FACS delegate)]

CONTACT DETAILS: (delete contacts that are not applicable)

//Proposed Adoptive Parent(s)//
//Postal Address//
//Email Address//
//Telephone or Mobile//

//Birth Mother/Father or Significant Other//
//Postal Address//
//Email Address//
//Telephone or Mobile//

FACS' Adoption Information Unit
Locked Bag 5000
Parramatta NSW 2124
(02) 9716 3005
1300 799 023 (toll free within NSW only)

//Name of relevant Agency or CSC//
//Address//
//Suburb, NSW Post Code//
//Phone Number//

CONCLUDING STATEMENTS:

If the people whom this plan relates to are in direct contact with each other, they need to advise each other of changes in their addresses and contact numbers as soon as possible.

It is the responsibility of each person whom this plan relates to, to advise FACS' Adoption Information Unit of changes in their address and contact numbers as soon as possible. (delete if not applicable)

Should there be any difficulties that arise in carrying out the adoption plan, please contact FACS' Adoption Information Unit. (delete if not applicable)

The adoption plan can be reviewed by the Court at the request of any of the parties to the plan.

SIGNATURES TO THE ADOPTION PLAN IN RELATION TO //CHILD'S FULL NAME//:

[Remove any names of people who will not be signing the final adoption plan. Signatures must occur on a page with text]

//Full Name of Child//

Date

//Full Name Birth Mother//

Date

//Full Name Birth Father//

Date

//Proposed Adoptive Parent//

Date

//Proposed Adoptive Parent//

Date

//Name//

Date

//Manager Casework or Name of Role//

//Insert CSC or Agency Name//

Delegate of the Secretary / Principal Officer

//Department of Family & Community Services// or //Accredited Adoption Service Provider Name//

(delete if not applicable)