

OOHC Adoption

Current practice

Adoption is an order for the child. Adoptions are now child focused and 'open' ensuring and supporting connection between adopted children, their birth and adoptive families. This has been our practice for over 20 years as set out under the *Adoption Act (2000)* and the *Adoption Regulation (2015)*.

Adoption is now legislated for consideration over children being placed in foster care with parental responsibility to the Minister, however, the number of children adopted from out-of-home care (OOHC) remains very low in Australia¹.

In NSW, FACS and accredited non-government adoption service providers have responsibility for delivering adoption services in NSW.

FACS Regional Adoption Caseworkers (RACs) support FACS and non-government staff to consider, prepare and progress adoptions of children and young people in OOHC where it is in their best interest.

The legacy of past practice

The laws around adoption practice in Australia from the 1940s to the 1990s were influenced by very different societal attitudes, a lack of research and early psychological theories that were incomplete.

Our history of secretive and forced adoption practice has left a legacy of grief, loss, separation, lack of identity and trauma. In 2012, the NSW Government



formally acknowledged and apologised for the damage caused in the lives of so many. In 2013 the Prime Minister also apologised on behalf of the Australian Government for past practices.

Self-reflection

- What is your experience of adoption?
- Does it impact on your practice?

Research informing current practice

Current research highlights the negative effect that repeated moves can have on some children and young people

in foster care. These repeated moves and placement changes can worsen the negative effects of pre-care instability and maltreatment leading to a range of poor outcomes including:

- physical and mental health issues
- behavioural problems
- difficulties at school
- higher rates of unemployment and homelessness.

Unpredictability and uncertainty are the main factors of foster care that contribute to long-standing feelings of insecurity and anxiety in children. A Queensland study involving 2009 children in foster care found:

- A third of young people and a quarter of children worried a lot about having to move on again
- The more placements young people experienced, the more likely they were to worry.

Placement instability can lead to children's health needs going unrecognised and they can miss out on preventative health initiatives.² Their friendships and schooling are also often disrupted by frequent change.

There is growing evidence to indicate that when children experience placement instability they are less likely to feel secure, loved and cared for.^{3,4} Recent NSW Government reforms prioritise adoption over foster care as a permanent placement (where it is in the best interests of the child or young person) as it represents a more stable and long-term solution.

Principles of the Adoption Act 2000 and its impact

Adoption legislation reflects key principles including the following:

1. Adoption is a service for the child

Adoption is a service for the child throughout childhood as well as adulthood.

The prime consideration is the benefit to the child, not the wishes and aspirations of other parties.

'The concept of adoption being a service for the child means that adoption orders are made or declined according to what will best advance the interests of the child, not the interests of the proposed adoptive parents nor, for that matter, the interests of the birth parents.

Adoption is not to be seen as a reward for being an outstandingly good foster parent, nor is refusing an adoption order to be seen as an incentive for birth parents to improve their lives or improve parenting capacity'.

Justice Brereton, NSW Supreme Court Judge

2. Adoption provides stability and security by giving the child a sense of belonging beyond the age of 18

Even the most stable and secure foster care placements can come to an abrupt end once the young person turns 18. At this time carers are no longer obliged to provide care, and many young people face transition to independence without the emotional, financial and practical supports that a permanent family can provide.⁵

For a child in OOHC, adoption provides stability and security by giving the child a sense of belonging beyond the age of 18. Adoption represents a permanent emotional and legal commitment to the

child throughout their childhood and adulthood. The bulk of contemporary research on OOHC adoption shows that adoption can provide a more stable placement option than long-term foster care.

Why I want to be adopted:

‘I would feel like I’m really part of the family even though I already am.

I can live one life and not be stuck in the middle of two with my foster family and my birth family.

I would fit in better at school.

I would be able to be a normal child of NSW, like being able to travel.’

Young Person in OOHC in NSW

3. Adoption practice is open⁶

Openness in adoption refers to an open attitude as well as actions.

An open attitude refers to the acceptance of a child having more than one family. It is reflected in the value seen in contact and developing relationships between birth and adoptive families.

Openness is also about an attitude that supports a child to grow in an environment where birth parents are talked about in a non-judgemental and respectful way. This enables a child to be comfortable talking about their life story and birth family. It also means a child will be supported to understand and accept the birth parent’s history and experiences and find value in them.

Research shows that adoptive parents who do best have empathy for both the child and the birth family.^{7,8}

‘I would like to be adopted because then there would be extra knowing that I will be here forever’. Young Person in OOHC in NSW, age 16

4. Adoption should help children know and access their birth family and cultural heritage

Unlike past closed adoption practices, open adoption promotes ongoing contact and the sharing of information between families.

The type and frequency of contact is either set out in the adoption plan or by an order of the Supreme Court. Contact may involve face-to-face contact, phone calls, emails, letters and social media.

Supreme Court judgment on contact:

‘The proposed adoptive parents accepted that they could have done more at an earlier stage, and spoke of the evolution of their understanding about the importance of birth parent contact; nonetheless, they have in more recent times been very supportive of contact, and have done more than any other party to promote it.’

NSW Supreme Court Judge,
Justice Brereton

Sibling relationships may represent the longest-lasting ties an adopted person keeps with their biological family and maintaining these connections where possible is vital in adoption practice today.

A core task for FACS and NGOs is to empower and offer support to all parties in working out how to develop positive relationships wherever possible. This casework should happen very early in the child’s placement with permanent carers/a prospective adoptive family.

The child’s given name(s), identity, language, cultural and religious ties should be identified and preserved.

‘Adoption is not about replacing, it’s about extending family.’ Regional Adoption Caseworker

From their review of research, the Child Welfare Information Gateway (2013)⁹, concluded that: open adoption supports establishing and maintaining respectful relationships with the birth family, supports facilitating the child's identity development and wellbeing and adoption encourages adoptive parents to be open in their discussions about their child's birth family.

Before changing a name or surname of a child the Supreme Court must consider the wishes of the child and any other relevant factors and determine if it is in their best interest. Children often see changing their name to their adoptive parent's as one of the most significant indicators of 'belonging' to that family.

Considering Permanent Placement options?

Contact your District RAC by emailing the 'OOHC Adoption' mailbox in your District to arrange a consultation or if you are a Non Government Organisation, by emailing OOHC.Adoption-HeadOffice@facs.nsw.gov.au.

Further reading

Out-of-home care adoption procedure

NSW Adoption Apology Transcript - www.parliament.nsw.gov.au/prod/web/common.nsf/key/Apologyforforcedadoptionpractices

National Apology for Forced Adoptions 2013 – www.ag.gov.au/About/ForcedAdoptionsApology/Pages/default.aspx

Adoption Act 2000

Adoption Regulation 2015

1. Cashmore, J. (2014). Children in the out-of-home care system. In Hayes, A., & Higgins, D. (Eds.), *Families, policy and the law: Selected essays on contemporary issues for Australia*. Melbourne: AIFS.

2. Healy, C.V. & Fisher, P.A. (2011). *Young children in foster carer and the development of favourable outcomes*. *Children and youth services Review*, 33, Fisher, 2011

3. Cashmore, J. & Paxman, M. (2006). *Predicting outcomes for young people leaving care. The importance of 'felt security'*. *Child and Family Social work: Special Issue on Leaving Care*. 11, 32 - 241;

4. Ellerman, C. R. (2008). Influences on the mental health of children placed in foster care. *Family and Community Health. Supplement 2 April – June 2007*, pS23 – S32.

5. Stein, M. (2006). Research review: Young people leaving care. *Child and Family Social Work*, 11, 273 – 279.

6. Triseliotis, J. (2002). Long-term foster care or adoption? The evidence examined. *Child and Family Social Work*, 7, 23-33.

7. Neil, E. Beek, M. & Schofield G (2003) Thinking about and managing contact in permanent placements: the differences and similarities between adoptive parents and foster carers, *Clinical child psychology and psychiatry* 8, 3, 401-418.

8. Sellick, C. Thoburn, J. and Philpott T. (2004) *What Works in Adoption and Foster Care*, Barnardos Australia.

9. Child Welfare Information Gateway (2012) *Adoption Disruption and Dissolution*, www.childwelfare.gov