SECTION 2: MANAGEMENT OF POTENTIAL AND PROSPECTIVE ADOPTIVE PARENTS

RECRUITMENT, APPROVAL AND SELECTION OF ADOPTIVE PARENTS

BENCHMARK POLICY 2.1

Suitable persons are recruited and selected as adoptive parents.

CONTENT

1. Policy statement
2. Context
3. Definitions

1 POLICY STATEMENT

To meet the standard an adoption service provider is expected to develop policies and procedures for recruitment, approval and selection of suitable adoptive parents, and when required provide practice evidence of their implementation.

Children placed for adoption in both domestic and intercountry programs come from a wide range of racial, indigenous, religious, cultural and language backgrounds. Each child being placed for adoption is an individual with his or her own specific needs and a family and life history. When planning for adoption it should be kept in mind that the child’s needs for a permanent family and his or her identity, adoption and any special needs are met, and that the child’s long term best interests are promoted.

A wide range of adoptive parents is needed with different skills, abilities and household circumstances. In addition a range of racial, indigenous, religious, cultural and language backgrounds are required to allow children to be placed with families who can maintain these important links for children. An adoption service provider will have to target its recruitment activities to find adoptive parents who meet the diverse needs of the children they place, including children with special needs.

There are important differences between adoptive and biological parenting. The adoptive parents’ capacity to acknowledge these differences will affect their adjustment to the tasks of adoptive parenthood and their attachment to the child. The tasks of adoptive parenthood include:

- bonding with a child born to someone else;
- making the child psychologically their own, yet accepting the child’s separate social and genetic history;
- explaining adoption at an early age and continuing to discuss adoption issues openly as the child develops;
- sharing with the child all information about their background;
- maintaining links between the child and the child’s birth family through ongoing contact or being open to re-establishing contact in the future; and
- supporting an adolescent or adult adopted person who is searching for his or her birth family.
Not all adoption service providers will require the full range of potential adoptive parents as they can seek access to appropriate prospective adoptive parents from the register\(^1\) of approved applicants. An intercountry service provider should encourage applicants with racial/cultural backgrounds similar to those of children available for placement in a specific intercountry program, to apply to that program.

As recruitment and approval of adoptive parents is a major component of confirming the quality of adoptive placements, an adoption service provider is expected to have policies and procedures for recruitment and approval that cover:

- the short and long term implications of adoption in relation to children and their birth families, the expectations and role of adoptive parents, and the adoption service provider’s program;
- the variety of prospective adoptive parents required to meet the individual needs of children anticipated to need adoptive placement,
- the need for potential adoptive parents to receive accurate information about adoption;
- formal selection processes\(^2\) with the selection criteria clearly spelt out;\(^3\)
- the need for non-approved applicants to be informed of the decision and be given clear guidelines about the process for an internal review of the decision, as the decision is not reviewable by the Administrative Decisions Tribunal;\(^4\) and
- any process for reapplication, if a child has not been placed with an applicant four years after advice of approval.\(^5\)

If recruitment processes result in gaps in the range of adoptive parents required for NSW born children currently in need of placement, an adoption service provider should develop policies and procedures for planned approaches such as targeted recruitments. For instance, racial, cultural and religious identity is a crucial aspect of a child’s growth and development and an adoption service provider’s strategies to recruit prospective adoptive parents from the backgrounds of children could include:

- advertising in ethnic and religious media and church newsletters;
- meeting with ethnic community organisations; and
- meeting with religious leaders and organisations.

The past detrimental policies of the removal of Aboriginal and Torres Strait Islander children makes it important for adoption service providers to work closely with Aboriginal and Torres Strait Islander people and organisations to recruit Aboriginal and Torres Strait Islander families for children needing adoptive placement in these communities. They should have policies and procedures for recruiting, selecting and supporting families which meet the participation, self-determination and placement principles of the Adoption Act 2000.\(^6\) If the proposed placement for a child from an Aboriginal or Torres Strait Islander background is with prospective adoptive parents

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\(^1\) Section 45(1)(b) of the Adoption Act 2000.
\(^2\) Sections 42-45 of the Adoption Act 2000 & clauses 6-17 of the Adoption Regulation 2003.
\(^3\) Clause 12 of the Adoption Regulation 2003.
\(^4\) Sections 189-193 of the Adoption Act 2000 and clause 72 of the Adoption Regulation 2003.
\(^5\) Clauses 14(3) & 15(g) of the Adoption Regulation 2003.
other than Aboriginal or Torres Strait Islander respectively, this must be justified before the Court at a Preliminary Hearing.\(^7\)

If an adoption service provider is accredited to make arrangements for children with special needs, such as older children or children with disabilities, it should have policies and procedures aimed at the recruitment of suitable adoptive parents who are able to meet their special needs. Recruitment strategies should be flexible in an endeavour to extend the range of families for these children and could include:

- advertising in disability magazines or newspapers;
- advertising in the local press targeting specific geographical areas;
- placing advertisements on community health centre or Council notice boards;
- advertising on community or local radio stations;
- advertising on television;
- advertising in church newsletters; and
- advertising in other adoption service provider’s newsletters.

As part of its recruitment process an adoption service provider is expected to provide easy to understand written information about adoption to prospective adoptive parents. It may be necessary to translate information into other languages and it may be useful to develop appropriate information for groups such as those from different cultural or religious backgrounds. The *Commonwealth-State Agreement for the Implementation of the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption* requires an intercountry service provider to gain the approval of the State Central Authority (Community, Child and Family Services, Department of Human Services) for the content of publications promoting adoption. This is also a requirement on the application form for intercountry service providers seeking accreditation. Information must be realistic, balanced and clearly state:

- selection criteria as published in the NSW Government Gazette;\(^8\)
- eligibility criteria for their country of choice;
- expectations of adoptive parents;
- classes of children available for adoption and any other information about these children that will assist prospective adoptive parents form realistic expectations;
- waiting times for placements;
- needs of an adopted child;
- fees;
- other costs such as those associated with an intercountry adoption;
- details of the approval and selection processes;
- requirements for post placement supervision and for reports to the country of origin;
- adoption subsidies available to support a child with special needs;
- adoption information rights and how these apply to the child and birth family; and
- legal issues.

An adoption service provider should develop both general and specific criteria for the selection of adoptive applicants. Adoption legislation and other legislation such as the

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\(^7\) Section 80(1) & (2) of the *Adoption Act 2000*.

\(^8\) Clause 12 of the *Adoption Regulation 2003*. 
NSW Anti-Discrimination Act 1977 are relevant in informing the general criteria. If an initial screening process indicates applicants do not meet the general criteria, the applicants should be advised before undertaking more intensive assessment.

General criteria should be based on:

- legal requirements for an applicant to be of good repute and a fit and proper person to fulfil the responsibilities of parenthood (includes applicants or other household members not having a criminal record indicating a pattern of physical violence, sexual abuse or emotional abuse; a substance abuse problem; a psychiatric history where medical assessment has indicated this would impede their ability to care for a child; or other serious health problem);[^9]
- the rights and range of needs of adopted children and children to be adopted;[^10]
- the particular needs of children to know and have access to their cultural heritage and to have their name, identity, language, cultural and religious ties preserved;[^11]
- the general qualities and skills required of adoptive parents; and
- assessment of the ability of applicants to care for a child consistent with the policies of the adoption service provider.

Practice knowledge based on the outcomes for past adopted persons and adoptive parents should inform the specific criteria. Adoption literature and current and past clients of the service can provide useful information about the qualities, skills and experience needed by adoptive parents to successfully adopt children. Specific criteria for selecting and approving adoptive applicants should include consideration of the applicant’s:

- motivation to adopt,
- stability of all relationships within the household,
- understanding of and ability to respond to a child’s individual needs, including involving them in participating in decision making about their everyday life;
- willingness and ability to connect with a child’s birth family and significant others, and a commitment to openness in adoption (this includes intercountry adoption where the overseas country may have a different view on openness to Australia);
- commitment to maintaining a child’s name, cultural heritage and links;
- personal resources and skills of household members (including children living in the applicants’ care);
- health and support networks;
- physical home environment;
- willingness to undertake initial and ongoing training; and
- understanding of the policies and willingness to work collaboratively with the adoption service provider and other services the child may need.

[^9]: Parts 1 & 3 of chapter 4 of the Adoption Act 2000 and part 3 of the Adoption Regulation 2003.
[^10]: Sections 7-9 of the Adoption Act 2000.
[^11]: Sections 7(c), 8(e) & 32 of the Adoption Act 2000.
An adoption service provider must notify the Director-General of the NSW Department of Human Services of the criteria used to assess the suitability of adoption applicants if these are different from the prescribed selection criteria detailed under clause 12 of the Adoption Regulation 2003. Adoption service providers also must apply for various forms to be approved under clauses 6, 9 & 10, such as their expression of interest form, medical forms and their application to adopt form. (Refer to benchmark policy 7.3 ‘Service visibility and publicity,’ for details on other material requiring approval of the Director-General.)

Generally an adoption service provider will have an Expression of Interest (EOI) process. This allows information to be given and screening to be undertaken before prospective adoptive parents proceed further through the process, where they undertake training and submit an application to adopt.

An adoption service provider is able to choose, from those who have submitted an Expression of Interest, applicants it wishes to invite to submit an application to adopt. First time applicants will be required to complete an adoption preparation training program before becoming eligible to submit an application to adopt. Second and subsequent applicants may also be required to complete adoption preparation training. This process can assist applicants in making decisions about whether they should continue with the adoption process. (For further information refer to benchmark policy 2.2 ‘Education and training of adoptive parents’).

An application to adopt consists of the application form plus a number of other documents. The formal application should include information about the applicants’ history, reasons for adopting, referees and willingness to work within the adoption service provider’s policies and procedures. An adoption service provider is able to decide whether it wishes to proceed to assess or not assess applicants who have submitted an application to adopt. This decision is subject to an internal review.

Potential adoptive parents must be assessed by an adoption service provider to determine whether, if selected, they understand and have the personal resources and skills to respond to an adopted child’s individual needs. An adoption service provider should challenge the prospective adoptive parent’s resources and abilities to meet those needs and give them the chance to self-select out of the process at any point. Applicants should be informed that even if approved, it may be some time, if ever, before a child is placed with them. Intercountry applicants should be informed that they also must meet the requirements of the overseas authority and any costs involved.

An adoption service provider can undertake assessment in a variety of ways. Policies and procedures for the assessment process should involve:

- applicants being given accurate information about adoption prior to applying. Information may be given in a range of ways including in writing, via education sessions, contact with adoptive parents or during assessment interviews;

12 Clause 16A of Schedule 1 of the Adoption Regulation 2003.
13 Section 43 of the Adoption Act 2000.
14 Clause 10 of the Adoption Regulation 2003.
15 Clause 13 of the Adoption Regulation 2003.
16 Section 192 of the Adoption Act 2000.
standard 2.1 recruitment, approval and selection of adoptive parents

- sufficient time for applicants to consider whether to apply;
- visits to and assessment of the applicants’ home;
- discussion and interviews applying all selection criteria with all household members, including speaking with other children alone. Any children of the applicants not living in the household should also be spoken with;
- a minimum of four interviews with applicants including both joint and separate interviews;
- all adults in the household having criminal record checks, working with children checks and community, child and family services, department of human services child safety checks.
- other checking of health records and references.

In addition to the above, applicants should also be engaged during assessment interviews in exploring widely and openly the reasons for the adoption application, the stability of relationships within the household and the expected impact on the household of adopting a child. Key expectations of the adoption service provider such as parenting an adopted child, dealing with racism, assisting the child with identity issues and supporting the child’s contact with his or her birth family are important to discuss at length as part of the assessment process.

An adoption service provider should have policies and procedures for the approval of adoptive applicants, once an assessment has occurred, that include:

- a written assessment report covering all selection criteria plus all other issues to be considered as a suitable adoptive parent. The report should include a recommendation regarding approval of the applicants to adopt, that can be supported by information in the report;
- any conditions placed on the approval, which could include the duration of the approval, the age, gender and race/culture of the child and the country from which the applicant is approved to adopt, or a nominated child;
- the type of placement and number of children approved; and
- a formal approval by the appropriate decision maker, following consideration of advice from a panel of consultants if required.

Successful applicants should be provided with written details of their approval that include:

- any conditions on the placement they have been approved for (eg: age, gender, number of children, overseas country);\(^{17}\)
- the process and time frame for formal updates and reviews of the approval within two years (for intercountry adoption this should be whenever the overseas country requires);
- expectations of the adoption service provider and government in relation to adoption, eg: their duty of care, confidentiality and that placement may not occur for some time, if ever; and
- rights, including internal review and complaints procedures.

An adoption service provider should have policies and procedures in place for making decisions to decline adoption applications, where prospective adoptive parents do not meet every requirement of the Act and all selection criteria, and an assessment report does not recommend approval. The decision making process is

\(^{17}\) Clause 15 of the Adoption Regulation 2003.
enhanced by consideration of advice from a panel of consultants before the decision is made by the delegated decision maker. (This may be a condition of accreditation for some adoption service providers. Further information on conditions of accreditation can be found at www.kidsguardian.nsw.gov.au). Unsuccessful applicants should be informed in writing of the decision, including the reasons for the decision, how to seek an internal review of the decision or make a complaint.\(^{18}\)

An intercountry service provider is required to make a recommendation for approval of suitable applicants to adopt, which is forwarded to the State Central Authority (Community, Child and Family Services, Department of Human Services) for its approval decision. The approval will outline any conditions of the placement and include the characteristics of the child the applicants are approved to adopt. The State Central Authority is responsible for issuing the approval to adopt letter, which is one of the requirements under the Migration Regulations\(^{19}\) when applying for an adoption visa for the child to enter Australia.

Under the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption (the Hague Convention)\(^{20}\) it is the responsibility of ‘competent authorities of the receiving state’ to determine whether prospective adoptive parents are eligible and suited to adopt the particular child that has been allocated to them.

2 CONTEXT

Adoption is the most significant decision regarding the care of a child as it permanently severs the child’s legal ties with his or her family. The objects and principles in sections 7-9 of the Adoption Act 2000 (the Act) require each adoption placement to be decided individually, based on the paramount consideration of the best interests of the child both in childhood and later life. The decision must also take into account the suitability of the proposed adoptive parents to meet the needs of the child and the wishes and views of the birthparents. In addition, adoption is to be regarded as a service for the child. **Undue delay in making a decision in relation to the adoption of a child is likely to prejudice the child’s welfare.**

The objects and principles also require the provision of services, including services to prospective adoptive parents, which foster the needs and best interests of children; preserve names, identity, language, religion and cultural ties; assist access to family; encourage openness and access to information.

Sections 33-36 outline the principles to be followed when making decisions about adoption in relation to an Aboriginal child. These include the principles of self-determination and participation, and adoption being a concept that is absent in customary Aboriginal child care arrangements. Adoption should not be considered unless it is clearly in the best interests of the child. It should also be preferable to any other type of care placement. Placement of the child must be made in consultation with a local, community-based and relevant Aboriginal organisation.

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\(^{18}\) Clauses 13, 14 & 16 of the Adoption Regulation 2003 and chapter 10 of the Adoption Act 2000.

\(^{19}\) Department of Immigration, Multicultural and Aboriginal Affairs, Fact sheet 36 available on www.immi.gov.au/facts

Sections 37-39 of the Act outline the principles to be followed when making decisions about the adoption of a Torres Strait Islander child. Adoption is a concept that forms part of the Torres Strait Islander culture. The first preference for placement is within the child’s extended family and if this is not practicable or in the best interests of the child, he or she is to be placed within the community or in another Torres Strait Islander community. Placement of the child must be made in consultation with a local, community-based and relevant Torres Strait Islander organisation.

An Aboriginal or Torres Strait Islander child is not to be placed with a prospective adoptive parent from an Aboriginal or Torres Strait Islander background respectively unless the Court is satisfied that the prospective adoptive parent can give due regard to the child’s cultural identity. In such cases a Preliminary Hearing is required.\(^{21}\)

Under section 90(1)(c), the Supreme Court must not make an adoption order for a child unless it is satisfied that the prospective adoptive parents have been selected in accordance with the Act. Parts 1 & 3 of chapter 4 of the Act and part 3 of the Adoption Regulation 2003 (the Regulation) provide further details of requirements for the selection of adoptive parents.

Clause 14 of the Regulation provides that the adoption service provider is to advise the applicant of the approval decision in writing, and include a copy of the assessment report, excluding any confidential criminal record checks or referee reports.

Any advertising for suitable adoptive parents for children needing placement must take into account sections 176, 178-180 of the Adoption Act 2000, which detail prohibited and unauthorised advertising. Refer also to benchmark policy 4.2 ‘Confidentiality and privacy.’

3 DEFINITIONS

Recruitment and selection of adoptive parents

Involves all those activities directed at attracting, targeting, enlisting, assessing and approving people to become adoptive parents for children, whose parents have given consent for their adoption or whose consent has been dispensed with.

\(^{21}\) Section 80(1) & (2) of the Adoption Act 2000.