



## **Department for Child Protection**

### **ADOPTION SERVICES**

#### **INFORMATION TO THINK ABOUT WHEN APPLYING TO ADOPT A CHILD OR CHILDREN FROM OVERSEAS**



## **WHAT IS ADOPTION?**

Adoption is a legal and social process, based on the needs of a child or children, which establishes a parent-child relationship between adoptive parents and an adoptive child. It places rights and obligations as if the child had been born into the family. It enables a child who cannot be cared for by his/her family to have a legal, permanent and stable family, to which all children are entitled.

The paramount consideration guiding Intercountry adoption is the best interest of the child.

Department for Child Protection, Adoption Services is the adoption authority in South Australia. It is illegal for residents of South Australia to make their own arrangements to adopt a child. Arrangements must be made through Adoption Services.

## **ADOPTION IS DIFFERENT TO PARENTING A BIOLOGICAL CHILD**

Adoption is different to parenting a biological child and raises many issues that most parents and children do not have to consider. Above all, you will need to encourage openness with the child about their adoption and their background, support them to understand the reasons for them being adopted.

Adoptive parents need to keep their child connected with their origins and honour the circumstances that led to them being adopted.

## **WHAT ABOUT INTERCOUNTRY ADOPTION?**

Intercountry adoption is an extremely complex process involving coordination and communication across various agencies at different levels of government, as well as liaison with authorities in overseas countries.

The adoption authorities in the child's country must be satisfied that adoption in another country is the best choice of care for the child and that there is no opportunity for the child to be cared for by their family, extended family, or within their own country and culture. This is a requirement for all children who may be considered for Intercountry adoption.

Although some children who are adopted to a foreign country are orphans or have been abandoned, many have lived with their parents and siblings or their extended family. Some are relinquished because of illness or poverty in the family. Children who need adoptive families generally have traumatic backgrounds. Most children from overseas who are in need of adoption have complex backgrounds of trauma and/or have special needs. Some have unknown backgrounds. Most children in need are aged between 4 and 9 years old. Children over 9 are much less likely to make a successful transition to a new family and country.

As much information as possible about the child and their unique circumstances will be provided to you by Adoption Services via the overseas country. At times the information is quite limited, especially if the child has been abandoned, or the country's resources are very limited.

Adopting a child from another country raises additional issues related to the child's cultural dislocation and the need for the adoptive parents to maintain cultural continuity for the child.

## **OVERSEAS CHILDREN**

There are many more people wanting to adopt children than there are overseas children legally available for adoption. Although there are many children around the world living in institutions and in foster care, most are not legally available for adoption because it has not been properly established whether they have family or extended families. This is a requirement prior to adoption to a foreign country being considered for any child.

## **THE ETHICS OF INTERCOUNTRY ADOPTION**

It is unethical for a country or state such as South Australia to put pressure on an overseas country to make additional children available for adoption. Receiving countries must not contribute to 'creating a market' that encourages child trafficking. It is therefore very important for adoptions between countries to be well regulated and arranged through approved regulatory bodies.

The number of children adopted overseas each year depends on the countries with children needing overseas families for adoption. Many countries do not want to place their children overseas, preferring local adoption where possible and some have made a commitment to reduce the number of children being adopted out of their country by foreign families.

It is not appropriate for the Australian authorities to attempt to coerce or influence the decision of the overseas guardians of the child. There is also no guarantee that a child will be placed at any stage, even when your file is in the overseas country. Unfortunately, this can mean that some applicants may never be placed with a child.

## WHAT ARE INTERCOUNTRY ADOPTION STANDARDS?

It is a very serious step for a child to be transferred from their country of origin and brought up in a foreign country by people of a different race and culture of their own. It is critical therefore that every measure is taken to ensure that such a process is in the child's best interests.

Thus Intercountry adoption must be regulated by strict principles and practices to ensure that no abduction of, sale of, or trafficking in children occurs.

## WHAT IS THE HAGUE CONVENTION?

Australia has formally committed to international standards in Intercountry adoption by becoming a signatory to the **Hague Convention on the Protection of Children and Co-operation in respect of Intercountry Adoption**.

This came into effect in Australia on 1<sup>st</sup> December 1998. This Convention is an international treaty, which developed as a result of the United Nations Convention on the Rights of the Children, to attend to the particular rights and needs of children who are the subject of an Intercountry adoption.

The Convention sets out agreed minimum standards and procedures to regulate the adoption of children between countries and to prevent the stealing and selling of children. It guards against children being placed for adoption without the proper consents from the child's parents and to minimise the likelihood of parents being persuaded by payment or other inducements to relinquish their child.

The Convention also ensures that every alternative has been explored for the child to remain with their family or extended family where that is possible or to be adopted in their own country.

The Australian Attorney-General's Department is the Central Authority in Australia (ACA) that monitors our compliance with The Hague Convention.

Details can be found at 

<https://www.ag.gov.au/FamiliesAndMarriage/IntercountryAdoption/Pages/default.aspx>

At a National level, the Department for Social Services is responsible for establishing and maintaining Intercountry adoption programs with overseas countries.

Details of current Intercountry programs available and the role of DSS can be found here: <http://www.intercountryadoption.gov.au/>

## WHO CAN APPLY TO ADOPT?

### WHAT ARE THE LEGAL REQUIREMENTS?

The Adoption Act 1988 and Adoption (General) Regulations 2018 set out the criteria that applicants must meet in order to be considered. The Act and the Regulations are available on <https://www.legislation.sa.gov.au/LZ/C/A/ADOPTION%20ACT%201988/CURRENT/1988.90.AUTH.PDF> (Act) and [https://www.legislation.sa.gov.au/LZ/C/R/Adoption%20\(General\)%20Regulations%202018.aspx](https://www.legislation.sa.gov.au/LZ/C/R/Adoption%20(General)%20Regulations%202018.aspx) (Regulations)

The minimum requirements are found in Regulation 9 (1-4) and are summarised as follows:

- The person is a permanent resident of Australia;
- The person is an Australian citizen, and in the case of joint applicants, at least one of the applicants is an Australian citizen;
- A person cannot be registered if that person's previous registration has been cancelled on the grounds that it was improperly obtained;
- A person cannot be registered if a child has, at any time, been removed from the person's care or custody and become the subject of an order made under the Children's Protection Act 1993, or a similar order;
- A person cannot be registered if that person (as an adult) has been convicted of an offence involving violence towards a child, abuse of a child or abduction of a child;
- The applicants must comply with the minimum requirements of the country from which they are expressing an interest in adopting a child;
- The Adoption Authorities in each of the overseas countries set their own criteria for applicants. These include age, marital status, health and religious criteria.

As well as the criteria in Regulation 9, there are also criteria which apply at the time a particular child is considered for placing in a family (Regulation 19). These criteria are as follows:

- A child cannot be allocated to or placed with a couple where there is already another child in the family who has been in the family for less than 12 months, or where the family is planning to assume the care of another child in the 2 years following an adopted child joining them;
- The applicants must have been cohabiting in a marriage or qualifying relationship for a continuous period of no less than three years.

Some children may have special circumstances that justify the placement of that particular child with an applicant who does not meet all of the above criteria. Such placements are not common. An example of such circumstances may be where the applicants are already parenting a sibling of the child.

Applications from single applicants are only considered when the special circumstances of the child indicate he or she will be best placed with the particular single applicant.

## ASSESSMENT FOR ADOPTION

A thorough assessment of people who have applied to adopt is conducted (Regulation 10). This covers the following aspects:

- Parenting skills or potential parenting skills;
- Motivation for adoption;
- Emotional maturity and stability;
- Physical and mental health;
- Capacity to deal with stress;
- Capacity to provide parental care and support for the child to adulthood and beyond if needed;
- Quality of the couple's relationship;
- Economic position and financial management skills;
- Criminal record if any;
- If infertile, the couple's attitude to their infertility;

- Attitude to children and to the discipline of children;
- Attitudes to adoption, to a child's birth parents, to the child's access to information about their origins and in particular an understanding of the child's cultural heritage;
- Attitude of other people of significance to the family;
- Any other factors considered to be relevant to the application

## **PROBLEMS AND POSSIBLE SOLUTIONS**

### ***SUITABILITY FOR INTERCOUNTRY ADOPTION: CONSIDER YOUR EXPERIENCES***

Since Intercountry adoption involves such a significant step in a child's life, it is critical that only families who are well suited to parenting a child from another country, race and culture become Intercountry adoptive parents.

There are enormous challenges in Intercountry adoption, including issues such as:

- Challenging racist attitudes in yourselves, your extended families and friends. You will be creating, by choice, a highly visible multi ethnic family that will last throughout your lifetime and for generations to come.
- Adoption has lifelong implications for all of the parties. Children should never be used to hold a relationship together, to fill a gap in some-ones' life, to replace a 'lost' child, or as a social duty. Rather, a child should be loved and wanted unconditionally for his or her own sake.
- Confronting ongoing racist attitudes in your communities and society in general, and assisting your child to be able to deal with the prejudices and discrimination of others throughout their lives.
- Acknowledging your child will have significant emotional issues throughout their life, possibly into adulthood, that arise from their early experiences, significant losses and identity dilemmas. These needs will require significant support from you as their parents, and their community.
- Parenting a child of unknown medical background, or a background where very little is known. This has inherent issues involving the possibility of genetically transferred mental or physical illness.
- Overcoming issues arising from the child's possible early experiences of deprivation, institutionalisation or abuse.
- Assisting the child to be positively disposed towards his or her background and country.
- Dealing with issues of 'positive discrimination', which is a form of racism, where the child from overseas is seen as especially 'interesting' or 'exotic', or an object of curiosity, rather than as a person in their own right. This can be particularly apparent for families who already have a biological child.
- Learning ways to preserve a sense of racial and cultural identity and pride and preparedness to integrate your child's culture into your lives;
- Considering the complex issues for an adopted child where there are already biological children in the family;
- Considering the impact on existing children in the family of the placement of an Intercountry adopted child;
- Acknowledging and respecting the child's difference, while encouraging a sense of belonging;
- Addressing the considerable losses which the child has experienced;
- Considering the issues of your own infertility (if applicable). The relationship between an adopted child and his or her adoptive parents can be very challenging for adoptive parents who are sensitive about their own infertility. Research and experience has shown that unresolved feelings about infertility can seriously affect a person's ability to accept and form a healthy relationship and attachment to an adopted child and in acknowledging that the adopted child has a permanent link to another family.
- It is therefore critical that issues of anger, guilt and sadness have been acknowledged and dealt with and that you are emotionally ready to consider adoption as a way of creating or extending a family.

## CONSIDER THE CHILD

In many cases, your child will grow up in a family of a different ethnic group or race and will become aware of the differences between themselves and those they love most. There are therefore many challenges in parenting a child who has been adopted from another country and you will have to be able to think about how, for example, you will explain to and help a young child understand these differences.

An adopted child will need help in feeling comfortable about their family and background since children and young people will closely compare their experiences with others. It is therefore vital to give the child an honest, short and reasonable explanation, in age appropriate language, of why they look different from the rest of their family and the reasons they came to be adopted.

Any adopted child can experience:

- Confusion over their identity and separation from their birth family;
- A feeling of abandonment or rejection, which they may interpret as a message of being inherently bad or unworthy;
- A sense of isolation and not belonging and of being different;
- A sense of grief and loss for their birth family;
- A sense of belonging neither to Australia nor their country of origin.

Being loved and wanted by the adoptive family does not necessarily eliminate these feelings and a child is likely to need acknowledgement and assistance in dealing with them. Children have the right to know who they are and where they have come from.

The adopted child will often have the same values, attitudes and expectations as those around them, but will look different to the rest of their family and to many in the broader community. This may be especially relevant when the adopted child is a teenager or when there are other children in the family who are the biological children of the parents.

There is considerable literature about the difficulties that any teenager faces in deciding who they are and what they want for the future. There is, therefore, the possibility that an adopted teenager may become increasingly curious about their birth parents and background at that time.

Although this information may appear somewhat confronting and overwhelming it contains some important points to consider before you apply to adopt and is meant to stimulate you into further discussions and research. Some of these difficulties may never arise, but if they do at least you will be partially prepared and perhaps more able to deal effectively with potential problems.

Intercountry adoption can have many rewards for all involved, and many families and adopted children have commented about the joys and satisfaction brought to their lives by the adoption process.

## PREPARATION FOR ADOPTION

Becoming parents or increasing a family is always a very significant life stage. Having a child by adoption requires understanding and preparation for the particular needs of the child and your family.

Some people who consider adoption may be resolving grief issues surrounding infertility. Applying to adopt may be their last opportunity to establish a family.

In some circumstances people express a preference for either a boy or girl. This could be for a range of reasons and needs to be fully explored. Some countries do not permit parents to express a gender preference.

### Consideration of the child's name

Changes to SA Adoption Act 1988 that came into force in December 2018, make it unlawful to change the child's first name unless the name is offensive in English, or is the same as the name of another child in the family.

In the past, even if an older child has appeared to agree to change their name upon adoption, in reality a newly adopted child is very vulnerable and may not be able to express their true feelings to new parents. The child's original name may have been given by birth family, or may have cultural significance for them. Children have grown up to regret the loss of their original name.

Names form an important part of the life story and identity of all children. Adoptive parents will be able to introduce an additional name for the child, as a middle name, to establish the child's connection with their family. The child will also automatically take on the surname of their adoptive parents after adoption.

It is important and helpful to discuss your adoption plans with your immediate and extended family, as well as your friends. People's views about adoption vary greatly. Some will embrace your plans and be excited about them, whilst others may say that adoption should not occur these days due to the harm experienced by people affected by adoption in the past, or that children should be supported to remain in their country of birth rather than be adopted.

You are advised and encouraged to develop your own knowledge about adoption. It is likely that in considering adoption you will encounter an interesting and lively debate and even opposition to the concept of Intercountry adoption.

## ARE THERE ANY OTHER SUPPORTS AVAILABLE?

There are parent support groups who always welcome and support waiting parents.

Adoption Services staff are happy to answer questions, or link you into an adoptive family who can help you.

Post Adoption Support Services is provided through Relationships Australia. They offer on going education and support and can be contacted at:

Address: 49a Orsmond Street, Hindmarsh SA 5007



(08) 8245 8100



[www.rasa.org.au](http://www.rasa.org.au)

The Commonwealth Government of Australia also specifically funds support services to families formed through Intercountry Adoption through international Social Services and Lifeworks. Information about this service, which can be accessed by applicants before a child is placed, as well as after, can be found here: <http://www.intercountryadoption.gov.au/post-adoption-support/intercountry-adoption-family-support-service/>

Adoption Services also has a library of books you are welcome to borrow from and there is a wealth of information on the internet.

## **WHAT HAPPENS WHEN A CHILD ARRIVES?**

A child who is adopted to an overseas country is likely to feel confused and anxious at this time and the experience of joining a family in a new country may be overwhelming. This may be especially so for an older child.

Not only is the child learning about their new family, they have left behind everything they have ever known. The new family may be unable to speak the child's language and often the child is non-verbal, or cannot speak English. The child will therefore often have limited opportunity to express their feelings and needs.

It is important that people considering adoption are sensitive to this and flexible enough to allow the child some transition time to settle into their entirely new world. Holidays and other travel are best taken at a later time. Sensitivity with limiting the numbers of family and friends visiting in the first weeks is helpful, although family and friends will be excited by your child's arrival, and keen to meet and welcome them. Taking things at the child's pace helps the child adjust to the new surroundings.

Where there are already children in the family, they may feel jealous or left out. Normal sibling rivalry may result which could be complicated by the adoption issues and the visual differences between the children.

## **WHAT HAPPENS TO PERSONAL INFORMATION?**

All information supplied in connection with an application for adoption will be treated in the strictest confidence.

Information provided for an application to adopt is kept on file at Adoption Services. This information may be released to the person to whom the information refers, subject to the relevant legislation. An application can be made to the Department for release of the information.

The Department also has a complaints process if you have any issues of concern. If at all possible, it is best to talk to Adoption Services staff directly about your concerns in the first instance as they may be able to be easily resolved.

## **HOW CAN ADOPTED PEOPLE SEEK OUT THEIR BIRTH FAMILIES?**

Experience shows that many adopted people wish to reconnect with their country and culture of origin once they become adults. Many also wish to search for and make contact with their birth families. This is true for children who are adopted locally and from overseas countries.

Birth parents or other family members from overseas countries may also seek information and/or contact with the child in later years as the child grows up. This is becoming increasingly common.

Overseas countries have procedures for post-adoption contact in place where it is possible for this to occur.

Some adopted people from overseas who seek out their birth family or reconnect with their culture of origin, may have difficulties in coming to terms with it if they are unable to form a relationship or communicate with these family members or their culture.

Assistance for adopted people to search for relatives overseas is also provided by Post Adoption Support Services in South Australia, and International Social Services nationally (see links to these services on page 7).

For many birth families, especially where the child had been in their care for some time (months or years in some cases), there is longstanding grief and concern for the child.

It is important that, in choosing to adopt from overseas, you are aware of the long term issues for the child and are prepared to assist the child with the challenging aspects of Inter-country adoption. This would include supporting the child to travel to his/her country of origin and/or seeking information about their birth family or relatives.

Support to search and reconnect with birth family is available through Post Adoption Support Services, and International Social Service. Adopted people can access their files once they turn 18, through Customer Services in the Department for Child Protection.

Birth families from overseas may contact Adoption Services through the overseas agencies and ask us to facilitate contact with the adopted person.



## MAKING CONTACT

If you would like further information about Intercountry adoption, please contact:

Adoption Services  
Level 3, 31 Flinders Street  
Adelaide SA 5000

GPO Box 1072  
Adelaide SA 5001



1800 512 355



[adoptions@sa.gov.au](mailto:adoptions@sa.gov.au)



[www.childprotection.sa.gov.au](http://www.childprotection.sa.gov.au)