

# Three Orders Compared



COURT ORDERS	GUARDIANSHIP	FULL PARENTAL RESPONSIBILITY TO RELATIVE/KIN (PRR) or SUITABLE PERSON	ADOPTION
Is the child in out-of-home care?	No	Yes (supported care) <sup>1</sup>	No
Legal jurisdiction	NSW Children's Court	NSW Children's Court	Supreme Court of NSW
Order duration	Up to 18 years of age	Shorter term orders and up to 18 years of age	Lifelong
Do birth parents cease to be legal parents?	No	No	Yes, all parental rights, responsibilities, guardianship and custody transferred from birth parents to adoptive parents.
Is there a new birth certificate?	No	No	Yes, an <u>integrated birth certificate</u> is available that includes information about an adopted person's parents and siblings at birth.
Is parent consent required?	No, but the Court will take <u>parents' views</u> into consideration.	No, but the Court will take <u>parents' views</u> into consideration.	Yes, unless the Court decides consent is not required.
Is child's consent required?	Yes, if a child is 12 years of age and over, with the capacity to consent.	No	Yes, if a child is 12 years of age and over, with the capacity to consent (if residing with their carers for over 24 months).
Can order be changed?	Yes, the Court may hear (or dismiss) a section 90 application to vary or rescind the order, <u>prioritising the views of the child.</u>	Yes, the Court may hear (or dismiss) a section 90 application to vary or rescind the order, <u>prioritising the views of the child.</u>	No, however the order can be discharged in exceptional circumstances, if consent was obtained by fraud, duress or improper means.
DCJ support for section 90 post-order	DCJ is involved in court proceedings up to three years post-order. Guardians only require representation if their position differs to DCJ.	DCJ is involved in court proceedings. Carers only require representation if their position differs to DCJ.	Not applicable
Decision making authority	All decision making by the guardians.	All decision making by the carers.	All decision making by the adoptive parents.
Will DCJ provide casework post-order?	No. Guardians manage all of the child's needs independently.	No. Carers <sup>2</sup> manage all of the child's needs independently.	No. Adoptive parents manage all of the child's needs independently. The Adoption Information Unit can provide limited support and advice.

<sup>1</sup> When a child is in PR of a suitable person (non-relative/kin) carer, the child is in statutory OOHC.

<sup>2</sup> When a child is in PR of a suitable person (non-relative/kin) carer, the child requires an annual case plan and carer requires an annual carer review by DCJ.

# Three Orders Compared



COURT ORDERS	GUARDIANSHIP	FULL PARENTAL RESPONSIBILITY TO RELATIVE/KIN (PRR) or SUITABLE PERSON	ADOPTION
<b>Family time (contact) support</b>	Guardians arrange family time and provide supervision if required. An approved financial plan may support accommodation, travel, meals and (in exceptional circumstances) supervision.	Carers arrange family time and provide supervision if required. Financial support may be available for accommodation, travel, meals and (in exceptional circumstances) supervision.	Adoptive parents arrange family time and provide supervision if required. Adoptive parents adhere to family time arrangements documented in an adoption plan that can be registered with the Court.
<b>Is an allowance paid?</b>	Yes. A (non-means tested) guardianship allowance is paid at the same rate as the <u>DCJ statutory care allowance</u> .	Yes. A (non-means tested) supported care allowance <sup>3</sup> is paid at the same rate as the <u>DCJ statutory care allowance</u> .	Yes. An <u>adoption allowance</u> is available. The allowance is means tested and subject to eligibility for Family Tax Benefits Part A.
<b>Contingency support</b>	A financial plan is developed for a child's needs up to 18 years of age, and can support identity & culture, life story, medical, professional therapy, child care and education.	Financial support may be available in exceptional circumstances for identity & culture, medical, professional therapy, child care and education.	If ineligible for allowance, a one off payment of \$3000 and an annual payment of \$1500 applies. In exceptional circumstances, an out of guidelines payment may apply.
<b>Reporting required</b>	Completion of an annual report in the form of a letter confirming the child remains in guardian's care and parents do not reside in the home.	An annual self-assessment by completing the Application for the Continuation of Supported Care Allowance Form.	An annual review letter confirming the child remains in adoptive parents' care and whether the adoptive parents are eligible for the allowance or annual payment
<b>Is Authorisation required?</b>	No. Authorisation (as a carer) is cancelled when order is made, unless the guardian is providing authorised care for other children.	Yes <sup>4</sup> . Authorisation in compliance with the Carers Register requirements.	No. Authorisation (as a carer) is cancelled when order is made, unless the adoptive parent is providing authorised care for other children.
<b>Does a work exemption apply?</b>	Yes, for relative/kin. If guardian is a suitable person, other Centrelink <u>criteria</u> may apply.	Yes	No
<b>After care support?</b>	No	No	No
<b>Transition to Independent Living Allowance (TILA)?<sup>5</sup></b>	No. May be eligible if the young person is aged 15 -17 at the time the order is made and exiting OOHC	No. May be eligible if the young person is aged 15 -17 at the time the order is made and exiting OOHC	No. May be eligible if the young person is aged 15 -17 at the time the order is made and exiting OOHC

<sup>3</sup> Child is in statutory OOHC when parental responsibility is to a suitable person. Therefore suitable persons receive a statutory allowance (at same rates).

<sup>4</sup> When a child is in PR of a relative/kin, the carer may elect to cancel authorisation, however will not receive an allowance or any other financial support.

<sup>5</sup> s165 provision of assistance after leaving OOHC.