

Policy Position: Adoption from Out of Home Care

Purpose

This policy provides the Benevolent Society's position on the adoption of children and young people from out-of-home care. The Benevolent Society supports open adoption where it is in the best interests of the individual child except in the case of Aboriginal and Torres Strait Islander children where we support the continued and full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle. The Benevolent Society does not support open adoption from the child protection system as a way to drive down the numbers of children in out of home care.

Key Messages

- The Benevolent Society supports open adoption where it is in the best interests of the individual child except in the case of Aboriginal and Torres Strait Islander children where we support the continued and full implementation of the Aboriginal and Torres Strait Islander Child Placement Principle
- The Benevolent Society does not support open adoption from the child protection system as a way to drive down the numbers of children in out of home care.
- Reducing the numbers of children in out-of-home care requires a fundamental shift from protection to prevention and support for vulnerable children and families and will not be achieved by reliance on a singular approach, such as improving pathways to adoption
- Adoption has lifelong impacts and always involves loss and grief for children and their families. Best interests' considerations need to incorporate both current and future impacts on a child and their relationship with their birth family.

Issue

The large numbers of children in Out of Home Care indicates significant failings at all levels of government to support at risk families and prevent children entering the child protection system.ⁱ

- Australian child protection jurisdictions are grappling with unsustainable numbers of children in long term out-of-home care.
- Increasing the use of open adoption as an exit from the care system is being contemplated by all Australian child protection systems and implemented in the NSW government's Safe Home for Life reforms. NSW has introduced legislative amendments that support adoption from out of home care and which are designed to reduce the number of children in the care system.
- The growing financial cost of out-of-home care placements together with evidence of poor outcomes of out-of-home care and residential care underpins the justification for use of adoption.ⁱⁱ
- A recent commentator estimated that less than 3.6% of children in out-of-home care are likely to be adopted from out-of-home care in NSW.ⁱⁱⁱ This disproportionate reliance on an individual policy or strategy carries a heightened risk of unintended consequences.
- There is a risk that policies such as legislated timeframes for permanency and adoption may inadvertently support government interests and related community crises rather than retaining a focus on the interests of each individual child and their family situation.
- Adoption has lifelong impacts and always involves loss and grief for children and their families. Best interests' considerations need to incorporate both current and future impacts on a child and their relationship with their birth family.
- The consequences for children if adoption placements break down are potentially catastrophic, as evidenced by the phenomenon of legal orphans in United States.

What The Benevolent Society is doing

- The Benevolent Society has a long history of supporting vulnerable children and their families. We provide services across the child protection spectrum from universal playgroups and parenting programs through to intensive family support services. The Benevolent Society strives to shift protection and tertiary level responses to child abuse and neglect to supporting vulnerable families and promoting the safety and wellbeing of children and young people.
- The Benevolent Society's report *Acting early: Changing lives: how prevention and early action saves money and improves well being* undertaken the Murdoch Children's Research Institute clearly demonstrates that it is far better to intervene early to prevent problems occurring than to try to address them once they become entrenched.
- The Benevolent Society is seeking to reduce the numbers of children in out-of-home care by promoting and increasing the safety and wellbeing of children in their families through:
 - Supporting families by improving and scaling up our Intensive Family Support Model
 - Pursuing partnerships and opportunities to roll out family support services and advocate for improved services
 - Investing in and piloting early intervention initiatives
 - Implementing a research to practice program that uses evaluation results and external research to continually improve service quality
- The Benevolent Society is campaigning for funding, policy and practice change by Australian governments to improve outcomes for children at risk.

What needs to be done?

The Benevolent Society supports and will advocate for Governments to:

- Increase government funding for family support services for vulnerable families and for reunification services.
- Work to develop a coherent national framework for open adoption that has regard to have regard to:
 - the historical experience of forced adoption and the impact of adoption extending across the life of adopted children;
 - the need for resources and services to support adopted children, birth parents and adoptive parents
 - the requirement to incorporate the relevant articles from the UN Convention on the Rights of the Child
 - the need to build a program of evaluation and research to learn from and continuously improve Australian open adoption practice.
- Continue the work commenced by the AIHW to develop an agreed permanency /reunification indicator under Standard 1 of the *National Standards for Out of Home Care* and to expand reporting in the national children protection data collection to include known carer adoptions, third party parental responsibility and long term guardianship orders.
- Ensure that every effort is made to achieve family preservation so that children can remain with their families of origin wherever possible, including that support is available to meet the individual needs of each family situation.
- Ensure that decisions about adoption that permanently change legal relationships for children must be firmly based on the principle that adoption is always a service for an individual child and that the child's best interests is the primary consideration in all decisions relating to his or her adoption.
- Prioritise pathways and processes that reflect the individual interests and situations of children who cannot return to their family or kin, where adoption is identified as a suitable option for achieving stability.

- Guarantee the child's needs inform what supports are available rather than the placement type or care arrangement.
- Extend the allowances and supports to adoptive parents and children who are adopted from out-of-home care and their biological parents.

Background

- Adoption in Australia has historically been stranger adoption rather than carer adoption, with numbers of adoption orders declining by 74 % over the past 25 years. Contemporary child protection systems have typically relied on other forms of long term orders for children, such as guardianship and parental responsibility orders, rather than adoption orders.^{iv}
- Of the 292 adoption orders made in 2014-2015 there were 95 carer adoptions in Australia and most of these were made in NSW, reflecting the recent policy and legislative reform that support adoption from out-of-home care.^v
- The relatively low numbers of children, who have been subject to open adoption arrangements, means that the local evidence base for open adoptions from out-of-home care is not well established. Indeed, the practice of 'openness' is variable across jurisdictions.^{vi} The recent establishment of the NSW Open Adoption Institute is a promising response to the absence of local research and evidence.
- Reducing the numbers of children in out-of-home care requires a fundamental shift from protection to prevention and support for vulnerable children and families and will not be achieved by reliance on a singular approach, such as improving pathways to adoption.
- Research in the United Kingdom has confirmed that children adopted from out-of-home care are likely to have ongoing support needs, related to past abuse, neglect and attachment disruption and to support relationships with their biological parents.^{vii}

Consultation

The following were consulted in the development of this policy:

- Child and Family Policy Reference Group
- The Post Adoption Resource Centre

Approval

This policy has been approved by the Executive Director, Strategic Engagement, Research & Advocacy

Principles

The following principles underpin The Benevolent Society's Child and Family Policy Framework and have been developed to guide our social policy platform.

1. All children have the right to grow up in an environment free from neglect and abuse.
2. Children have the right to have a voice in all decisions affecting them.
3. Systems and institutions must address the social determinants, including poverty and social exclusion.
4. Policy, practice and advocacy is outcome focussed, evidence based, measurable and evaluated.
5. Children are best cared for by family and kin where possible and every effort should be made so that children can remain with, and return to, their families.
6. Australian society has a responsibility to value, support and work in partnership with parents, families and communities to care for children.
7. Aboriginal and Torres Strait Islander children and their families have the right to self-determination.
8. Aboriginal and Torres Strait Islander children have a right to grow up in culture.
9. Children and families with disabilities have the right to full and effective participation and inclusion in society.
10. Children and families from culturally and linguistically diverse families and refugees have the right to full and effective participation and inclusion in society.

Endnotes

- ⁱ Senate Community Affairs Committee Secretariat 2015, the Senate Community Affairs Reference Committee: Out of Home Care. Canberra: Senate Community Affairs Committee Secretariat p.17
- ⁱⁱ Ainsworth F and Hansen P (2016), Establishing Adoption as a Route Out of Care in New South Wales: A Commentary, Children Australia 41 (3) 232-236
- ⁱⁱⁱ Ainsworth F and Hansen P (2016), Establishing Adoption as a Route Out of Care in New South Wales: A Commentary, Children Australia 41 (3) 235
- ^{iv} Australia Institute of Health and Welfare (2015) Adoptions Australia 2014-2015, Canberra
- ^v Australia Institute of Health and Welfare (2015) Adoptions Australia 2014-2015, Canberra, p.vi
- ^{vi} Australia Institute of Health and Welfare (2015) Adoptions Australia 2014-2015, Canberra, p1
- ^{vii} Thomas C (2013) Adoption for looked after children: messages from research: An overview of the Adoption Research Initiatives