

Policy Position: Permanency for Children in Out of Home Care

Purpose

This policy provides the Benevolent Society's public position on permanency planning for children in the out-of-home-care system. The Benevolent Society believes the best interests of individual children must drive all decisions about their long term care and that the preservation and restoration of children to their families, kin and community to provide safe care is a priority in all permanency planning approaches.

Key Messages

The Benevolent Society recognises the importance of achieving permanency for children involved in the child protection system. The Benevolent Society believes more can be done in policy and practice so that:

- The preservation and restoration of children to their families to provide safe care is a priority in permanency planning approaches.
- The best interests of individual children drive all decisions about their long term care. Permanency is one approach to achieving the best interests of children. It is not a given that permanency will always be in a child's best interests.
- The voice of children and their families is central to all decision making.
- A greater focus is placed on achieving relational stability, continuity and connection for children with family and community at entry into the system and in all decisions on the child's future.
- Legal and physical permanency should be used to help achieve security and stability rather than being the focus of achieving permanency. Legislated timeframes to achieve permanency are unhelpful.
- Children and families subject to adoption, permanency or third party orders should have access to high quality services on an ongoing basis to address trauma and strengthen family functioning.
- There is full and effective implementation and adherence to the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle in all decisions to achieve stability and permanency for Aboriginal and Torres Strait Islander Children.
- Permanent legal orders such as adoption or third party guardianship should never be a strategy to drive down costs in the child protection system.

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.¹

- The removal of a child from their family causes significant trauma and often has profoundly negative long term impacts for the child.¹ Children who enter out-of-home care experience worse long term outcomes and are much more likely to experience poorer health, depression, violence and suicide attempts throughout their lives; be imprisoned; suffer from alcohol abuse and gambling addiction and are less likely to have trusting relationships, healthy parenting models, and access to education and economic opportunities.²
- In response to the increasing numbers and length of stay of children in out-of-home care, governments have turned their policy focus to legislated timeframes and other legal arrangements to achieve permanency for children unable to return to their parent's care.
- Evidence shows 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.³

- Children, their parents and carers, subject to adoption, permanent care orders and third party orders have limited or no ongoing access to government support services, providing a significant cost saving to government, at the expense of the child's health and wellbeing.
- The focus on permanency across jurisdictions has concentrated on physical and legal permanence over relational permanence. Prioritising legal permanency at the expense of relational permanency risks failing to consider the unique needs and best interests of individual children and may block pathways to ongoing family relationships and reunification.
- Relational permanence is central to the well-being and lifelong outcomes of Aboriginal and Torres Strait Islander children. For these children, permanence is identified by a broader communal sense of belonging; a stable sense of identity, where they are from, and their place in relation to family, mob, community, land and culture.⁴ Inflexible legal measures to achieve permanent care may actually serve to sever the connections for Aboriginal and Torres Strait Islander children with their permanent identity breaking bonds that are critical to their stability of identity while in care and in their adult life.⁵
- Denying cultural identity to Aboriginal and Torres Strait Islander children is detrimental to their attachment needs, effecting their emotional development, their education and their health.⁶
- The permanent removal of Aboriginal and Torres Strait Islander children from their families brings back the policies of the Stolen Generations for Aboriginal and Torres Strait Islander communities and causes new and lasting trauma.⁷

What the Benevolent Society is doing

The best way to protect children is to prevent child abuse and neglect from happening in the first place.⁸

- The Benevolent Society has a long history of supporting families and communities to care safely for their children and of advocating for policy reform that supports families. We provide services across the continuum from universal early years' programs, community building and parenting programs to prevent children entering the out-of-home care system, and intensive family and other support services to strengthen families, support improved parenting ability and assist family reunification.
- For cases where children cannot return home or live with kin, permanent long term foster care or adoption may be an effective way of achieving stability. For these children, The Benevolent Society advocates for early pathways and processes that prioritise and reflect each child's individual needs and best interests.

What needs to be done?

The Benevolent Society supports and will advocate for:

- The development and funding of a public health approach to child safety and wellbeing to drive better outcomes for children and their families early. A public health model includes robust primary and secondary systems that provide families with the assistance they need to nurture and support their children and prevent contact and intervention by the statutory child protection system.
- Governments to acknowledge that children are best cared for by family and kin where possible and that every effort should be made to achieve family preservation so that children can remain with and return to their family. Governments to develop agreed national targets for reducing the removal of children and promoting reunification.
- Governments to demonstrate that all efforts at reunification have been exhausted before permanency arrangements commence. This includes adequate funding and support to enable the preservation and restoration of families to provide safe care for their children as a priority over permanency planning approaches.

- Timeframes should not be applied to permanency planning, through legislation or policy processes. Permanency options must be consistent with the recognised principles and obligations outlined in the *United Nations Convention of the Rights of the Child*.
- The full and effective implementation and adherence in all decisions regarding a child's entry into, and at all points of the out-of-home care system, to the five elements of the Aboriginal and Torres Strait Islander Child Placement Principle; *prevention, partnership, placement, participation and connection* which provide the appropriate framework to achieve stability and permanency for Aboriginal and Torres Strait Islander children.
- The voice of Aboriginal and Torres Strait Islander families is heard in all decisions on child placement and permanency.
- Governments' increase funding and support for kinship carers to enable Aboriginal and Torres Strait Islander children to remain with family and community.
- Permanency for children in the out-of-home care system must incorporate all three dimensions: *physical stability, legal permanency and relationship permanence*.
- Governments fund and ensure ongoing and appropriate service support is available to children, carers and biological parents, following a final court order such as a permanent care order, third party guardianship or adoption order.

Background

Children and young peoples' need for stability and a sense of security in out-of-home care is acknowledged at the national policy level in Standard 1 of the National Standards for Out-of-Home Care.⁹

- Permanency for children in out-of-home care refers to three dimensions of permanency:
 - *physical stability*, living with the same carer and in the same community;
 - *legal permanency*, indicated by a final long term court order or restoration with family; and
 - *relationship permanence*, which includes maintaining family ties and kinship relationships, through contact visits and communication.¹⁰
- All Australian child protection jurisdictions are under pressure to reduce the growing numbers of children in long term out-of-home care. The number of children entering out-of-home care is rising and children are staying longer in care.
- Of the 46,448 children living in out-of-home care in June 2016, approximately 4 in 5 children (80%) had been continuously in out-of-home care for 1 year or more; 26% had been in out-of-home care for between 2 and less than 5 years, while a further 40% had been in out-of-home care for 5 years or more. One-fifth (20%) of children had been in out-of-home care for less than 1 year.¹¹
- The longer children stay in the care system the more likely they are to experience multiple placement moves and different carers. Although the importance of stability for development of nurturing relationships and a positive sense of identity is acknowledged by governments and the sector, many children continue to experience high levels of instability for extended periods.
- An increasing proportion of children are entering care at a younger age, staying longer and being discharged at an older age. In 2015–16, over 12,800 children were admitted to out-of-home care and almost 9,800 children were discharged.¹²
- The rates of Aboriginal and Torres Strait Islander children in out-of-home care are significantly higher than non-Indigenous children across all Australian jurisdictions. At 30 June 2016, approximately 36% of all children in out-of-home care were Aboriginal or Torres Strait Islander. In 2016, Aboriginal and Torres Strait Islander children were 9.8 times more likely than non-Indigenous children to be in out-of-home care nationally.¹³

- Despite agreed national and state policy frameworks to shift child protection systems towards prevention and early intervention, only 16.6 per cent of total child protection expenditure is invested in early intervention or prevention strategies that support families.¹⁴
- All jurisdictions are struggling to recruit and support the number and type of foster and kinship carers needed to meet the care and therapeutic needs of children removed from their parents' care.¹⁵ The residential care system, which provides 8% of out-of-home care placements is challenged by historical and contemporary reports of sexual abuse of children¹⁶, the complex therapeutic needs of the children and young people and arm's length contractual arrangements that are not accountable.

Consultation

The following were consulted in the development of this policy:
Child and Family Policy reference working group

Approval

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

Related Policies

Adoption Policy

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 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

- ¹ Department of Child Protection (WA), *Child Development and Trauma Guide* (2012).
- ² SNAICC, *The Family Matters Roadmap* (2016) 3.
- ³ Caroline Thomas, *Adoption for looked after children: messages from research - an overview of the Adoption Research Initiative* (British Association for Adoption & Fostering, 2013).
- ⁴ SNAICC, *Submission to the Queensland Department of Communities, Child Safety and Disability Services – Review of the Child Protection Act 1999 (Qld)* (2017) 8.
- ⁵ SNAICC, *Submission to the Queensland Department of Communities, Child Safety and Disability Services – Review of the Child Protection Act 1999 (Qld)* (2017) 8.
- ⁶ Victorian Aboriginal Child Care Agency Co-Operative Limited (VACCA), *Myth Busting Fact Sheet*. At <https://www.vacca.org/vacca-myth-busting-fact-sheet/> (Viewed 6 February 2018)
- ⁷ SNAICC, *Submission to the Queensland Department of Communities, Child Safety and Disability Services – Review of the Child Protection Act 1999 (Qld)* (2017) 13.
- ⁸ Inverting the Pyramid, *Enhancing Systems for Protecting Children* (2008) Australian Research Alliance for Children and Youth, 2
- ⁹ Department of Social Services (Cth), *An Outline of the National Standards for Out-of-Home Care - A Priority Project under the National Framework for Protecting Australia's Children 2009 – 2020* (2011) 8.
- ¹⁰ SNAICC, *Submission to the Queensland Department of Communities, Child Safety and Disability Services – Review of the Child Protection Act 1999 (Qld)* (2017).
- ¹¹ Australian Institute of Family Studies, *Child Abuse and Neglect Statistics: CFCA Resource Sheet* (June 2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (Viewed 6 February 2018).
- ¹² Australian Institute of Family Studies, *Child Abuse and Neglect Statistics: CFCA Resource Sheet* (June 2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (Viewed 6 February 2018).
- ¹³ Australian Institute of Family Studies, *Child Abuse and Neglect Statistics: CFCA Resource Sheet* (June 2017). At <https://aifs.gov.au/cfca/publications/child-abuse-and-neglect-statistics> (Viewed 6 February 2018).
- ¹⁴ Productivity Commission (2016), *Report on Government Services 2016, Vol.F: Community Services* 6
- ¹⁵ Australian Institute of Family Studies, *Children In Care*, CFCA Resource Sheet (October 2016)
- ¹⁶ Moore, T., McArthur, M., Roche, S., Death, J., & Tilbury, C. (2016). *Safe and sound: Exploring the safety of young people in residential care*. Melbourne: Institute of Child Protection Studies, Australian. Catholic University. Royal Commission into Institutional Responses to Child Sexual Abuse, Sydney.