

Policy Position: The Removal of Children from Their Families

Purpose

This policy provides The Benevolent Society's public position on the removal of a child or young person from their family by the statutory child protection system. The Benevolent Society believes preventing a child's exposure to maltreatment must be the primary consideration in protecting children. This requires a service system designed to prevent harm in the first instance, with a professionally supported, highly skilled workforce to ensure that if removal is necessary, it is undertaken in the best interests of the child.

Principles

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 focused, 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.

Issue

A child 'shall not be separated from his or her parents against their will, except when competent authorities subject to judicial review determine.... that such a separation is necessary for the best interests of the child' - The United Nations Convention on the Rights of the Child'

- A child has a right to be protected from maltreatment, either by addressing the maltreatment or removing the child from harm.
- It is acknowledged by governments, service providers and academics that the removal of a child from their family may cause significant trauma and have negative lifelong impacts for the child. The current service system is not designed or resourced to effectively support families early enough to prevent maltreatment.
- The decision to remove a child from their family has long term implications for the child. It should be considered only when the level of harm is significant and on balance is judged to be less damaging than leaving the child with the family.²
- Whilst the evidence shows that children in out-of-home care experience more serious physical, mental and emotional health problems than children who have never been in care³, we also know that exposure to maltreatment and trauma at home and the length of time exposed to trauma all contribute to poorer outcomes for children in care, including placement instability.⁴

- The failure to identify and remove children from maltreatment can have tragic effects for children and families, including in extreme cases child death. Greater investment in highly skilled and experienced casework⁵ is required to identify and respond in a timely way to cases of chronic maltreatment.
- Despite the catastrophic consequences of past government practices of forcibly removing Aboriginal and Torres Strait Islander children from their families and communities, Aboriginal and Torres Strait Islander children continue to be removed from their families at almost 10 times the rate of non-Indigenous children⁶.
- The need for further research on child removal is recognised as crucial to inform and guide policy makers and service providers, particularly to ensure that interventions are doing no greater harm.

What The Benevolent Society is doing

- 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' ability to care for their children and assist child and family reunification. These include Intensive Family Based Services, Fostering Young Live, Brighter futures and Resilient Families.
- The Benevolent Society is building a long term national campaign, in alliance with over 20 partner organisations, calling for a national approach to improve the wellbeing and safety of children across Australia so that issues leading to maltreatment can be addressed early.
- The Benevolent Society's Fostering Young Lives Program supports children and young people in Sydney who cannot live at home with their birth families. Ongoing and coordinated support services are delivered to best meet the needs of children, young people and their carers.

What needs to be done?

The Benevolent Society supports and will advocate for governments to:

- Work together to develop, resource and implement a public health model approach to child wellbeing and safety that provides families with the assistance they need to nurture and support their children and prevent and reduce maltreatment that would require intervention and removal by the statutory child protection system.
- Provide adequate funding and support for Intensive Family Support Services to assist families to care for their children and reduce the prevalence of maltreatment.
- Provide adequate funding and support for child protection systems to provide manageable caseloads and highly skilled casework that can assess the need for removal before significant or repeated maltreatment occurs. Where removal is needed, it must be undertaken in a child focused manner, supported by ongoing high level casework and appropriate services.
- Ensure the appointment of a suitably skilled and experienced child advocate for children at risk of removal.

- Resource and provide for high quality, supportive and stable out-of-home care to be provided to children and young people to mitigate against the negative effects of trauma.
- Resource and ensure that appropriate service supports are provided to the child and the child's family to assist them through the upheaval of removal, deliver stability and where possible, provide ongoing supports for family reunification.
- Resource and ensure that Aboriginal and Torres Strait Islander children removed from their families are placed with kin or community in accordance with the Aboriginal and Torres Strait Islander Child Placement Principle⁷ to mitigate against the trauma of removal.
- Support further research on the removal of children from families and mitigation strategies to inform policy and practice for children experiencing maltreatment in the home and their placement into out-of-home care.

Background

"Children must be removed when there is danger. But you then have to remove the danger, so the children can go home."-Dr Mick Dodson⁸

- Research shows that children who experience maltreatment display negative developmental outcomes in childhood and subsequent out-of-home care instability.⁹ They are more likely to go on to have poorer education, health, employment and justice outcomes in adulthood.
- The number of children in out-of-home care rose every year over the years 2012-2016 from 37,621 in 2012 to 46,448 in 2016 an increase of 17%.¹⁰
- In 2016/17 47,915 children were in out-of-home care nationally, 17,664 of whom are Aboriginal and Torres Strait Islander children.¹¹ The rise in all children and young people on care and protection orders from 8.2 to 9.9 per 1,000 in the period from 2013 to 2017 was largely driven by the rise in Aboriginal and Torres Strait Islander children entering care.¹²
- Aboriginal and Torres Strait Islander children continue to enter out-of-home care at rates that are 10 times that of non-Aboriginal children¹³.
- The removal of children from their families has positive and negative aspects, with the immediate safety of the child being the most obvious outcome.¹⁴
- Whilst removal from the risk of harm must be a priority for all children, the impact of removal for Aboriginal and Torres Strait Islander children, families and communities can be mitigated by adherence 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.
- Removal can also have profoundly negative effects on children and young peoples' development and socialisation. The more traumatic the separation, the more likely there will be significant negative developmental consequences. Children who have suffered traumatic separations from their parents have been shown to have low self-esteem, a general distrust of others, mood disorders (including depression and anxiety), socio-moral immaturity, and inadequate social skills. Repeated separations interfere with the development of healthy attachments and a child's ability and willingness to enter into intimate relationships in the future.¹⁵

- To minimize the effects of maltreatment and child protection interventions, risk assessment processes must be undertaken. Once the decision to remove the child has been made, continuing cultural affinity and the possibility of reunification with the birth family must be priorities. Where reunification is not possible, decisions about a permanent, stable solution must be made as soon as possible.¹⁶
- While there is “mixed evidence on the effect of age” roughly half of reviewed studies found children who came into care earlier have more positive placement outcomes than those coming into care at an older age.¹⁷

Key Messages

The Benevolent Society believes 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 or return to their family.
- We currently have little evidence that when we remove children, we are improving outcomes.
- The current service system is not designed or resourced to effectively support families early enough to prevent maltreatment of children.
- Removal of a child from their family causes ongoing trauma to the child and the family, even in circumstances where it is necessary and in the child’s best interests.
- The best interests of the child must govern all decisions on removal.
- We need a child protection system that is fit for purpose and adequately funded to deliver essential services to vulnerable children and families. Funding in the current system is skewed to OOH. The system must be resourced to deliver:
 - Support to families to prevent maltreatment
 - a highly skilled, experienced and stable workforce that can assess the need for removal before significant or repeated maltreatment occurs and provide a supportive and child focused removal process that is protective and minimises trauma.
 - supportive and stable out-of-home care that is reinforced by ongoing best practice casework and appropriate services to mitigate against the negative effects of trauma and removal on children and young people.
 - Reunification for families who have had their children removed.
- Governments must fund services to work with families whose children have been removed to address child protection issues and assist them to have their children returned to their care.
- The catastrophic effect of past government practices of forced removal of Aboriginal and Torres Strait Islander children from their families and communities are still being felt today and every effort must be made to place Aboriginal and Torres Strait Islander children and young people removed from their families with extended kin or community.

Consultation

The following were consulted in the development of this policy:

- Child and Family Policy reference working group
- Executive Leadership Team
- Senior Leadership Team
- Risk, Quality and Compliance Committee

Approval

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

Related Policies

Public Health Model

Permanency

Endnotes

¹ *Convention on the Rights of the Child*, opened for signature 20 November 1989, 1577 UNTS 3 (entered into force 2 September 1990) Article 9.

² Australian Association of Social Workers 'Child Well Being and Protection' Position Paper, (2013) 8

³ Peter Walsh and Marilyn McHugh, *Factors Influencing Outcomes for Children and Young People in Out-of-Home-Care* (2017)

⁴ Peter Walsh and Marilyn McHugh, *Factors Influencing Outcomes for Children and Young People in Out-of-Home-Care* (2017)

⁵ For the purposes of this policy the phrase highly skilled and experienced caseworker means case workers are trauma informed, skilled in poverty informed practice, culturally competent and recognise the dynamics and of family violence and unconscious bias.

⁶ Australian Institute for Health and Welfare, *Child Protection Australia, 2015-16* (2017) 3

⁷ Australian Institute of Family Studies, *Enhancing the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle*, CFCA Paper No.34 (2015)

⁸ Mick Dodson, 'Welcome Address' (Speech delivered at SNAICC National Conference, Canberra, 12 September 2017).

⁹ Alexandra Osborn and Leah Bromfield, Australian Institute of Family Studies, *Outcomes for Children and Young People in Out-of-Home-Care: NCPC Brief No 3* (2007) At [HTTP://aifs.gov.au/cfca/publications/outcomes-children](http://aifs.gov.au/cfca/publications/outcomes-children)

¹⁰ Australian Institute of Family Studies, *Children in Care*, CFCA Resource Sheet (October 2017)

¹¹ Productivity Commission, *Report on Government Services 2018* (2018) 16A.2.

¹² Australian Institute for Health and Welfare, *Child Protection Australia, 2015-16* (2017)

¹³ The Family Matters Report 2017, Measuring Trends to turn the tide on the over-representation of Aboriginal and Torres Strait Islander children in out-of-home care in Australia. (2017) p5

¹⁴ Jordan Institute for Families 'Separation and Attachment' *Children Services Practice Notes*, Volume 2 No.4 (July, 1997)

¹⁵ Jordan Institute for Families 'Separation and Attachment' *Children Services Practice Notes*, Volume 2 No.4 (July, 1997). At http://www.practicenotes.org/vol2_no4.htm (Viewed February 9, 2018).

¹⁶ Australian Association of Social Workers 'Child Well Being and Protection' Position Paper, (2013) 9

¹⁷ Peter Walsh and Marilyn McHugh, *Factors Influencing Outcomes for Children and Young People in Out-of-Home-Care* (2017) 7.