

# Barnardos Australia Submission to Queensland Child Protection Inquiry- September 2012

Barnardos Australia wishes to advocate the full use of Queensland legislation on adoption and urges the Inquiry to recommend set targets for adoption from care. Currently, too many non-Indigenous children in Queensland are 'stuck' in care until age 18 and welfare agencies are not finding them permanent families. Barnardos Australia believes that 'Open Adoption' can:

- Dramatically improve the welfare of children who are otherwise condemned to repeated failed restorations or a life in the unstable foster care system. We are particularly concerned about the very large number of babies in care who are likely to spend their lives in care.
- Improve the child protection system as a whole, as the release of children to adoptive families can save State Government millions of dollars a year.

Barnardos has established open adoptions for two-thirds of the children in our long term care programs in NSW and ACT and can demonstrate the great advantage of open adoption. Whilst Barnardos does not provide services in Queensland, we have previously been invited to demonstrate our research on open adoption by the Queensland Children's Commissioner. We believe that this was actively considered prior to changes in your legislation in 2009.

Barnardos is dismayed that in 2010-11, there were only four Queensland children adopted to 'known' people and, given the Australian average, this may have only been 2 children adopted to known foster carers under Queensland's new legislation<sup>1</sup>. This is in contrast to the large number of children who could potentially be considered for adoption. There are many children living in out of home care for more than five years (2,584 children) and more than two years (2,319)<sup>2</sup>. Of these almost 5,000 children, many are Indigenous children and are not suitable for adoption, however one-third are non-Indigenous and should be considered.<sup>3</sup> It is very important to note that many of these children may have entered care as babies or toddlers, as there are approximately 2,000 Queensland children under 4 years of age living in care<sup>4</sup>.

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<sup>1</sup> Australian Institute of Health and Welfare. Adoptions 2010-11.

<http://aihw.gov.au/WorkArea/DownloadAsset.aspx?id=10737420773> Accessed 29<sup>th</sup> August, 2012

<sup>2</sup> AIHW Child Protection 2010-2011 <http://aihw.gov.au/publication-detail?id=10737421016&tab=2> Table 4.2)

<sup>3</sup> Barnardos cannot comment on the adoption of Torres St Islander children as we have no experience with this group (O'Neill, Ban et al. 2009)

<sup>4</sup> AIHW Child Protection Australia 2010-11 <http://aihw.gov.au/publication-detail/?id=10737421016&tab=2>. Table A1.22

This potential population must also be considered against the backdrop of increasing numbers of children living in care<sup>5</sup> but decreasing number of admissions to care<sup>6</sup> That is, during a time when children are living for lengthening times in care, 1,634 children could have been considered for adoption. The Queensland data on open adoption is in contrast to that in NSW and ACT. We would also point out that in the United States there are, on average, 50,000 children adopted from care<sup>7</sup> each year and almost 30% of children who enter care aged under two are adopted in the United Kingdom<sup>8</sup>.

Open adoption is feasible in Australia and possible in Queensland. It can greatly improve children's lives at the same time as making important cost savings in the child protection system.

### **Adoption is feasible in Australia**

Open adoption is seen as a commonsense approach by the Australian public to problems in child protection systems. It has individual social benefits and is possible within existing welfare agency organisation.

There is increasing public disquiet at the Australian child welfare system, which is seen to be failing to take effective action for children who will clearly never be able to return to a safe family. Research, that has received widespread publicity in 2011, has been highly critical of government policy. This report attributes the growth in care numbers to being caused by well meaning preventative support for parents, as well as unconsidered restoration attempts:

*By the time that 'high needs kids' reach adolescents they are severely disturbed and distressed, and exhibit uncontrollable, threatening and violent behaviour ...only effective and affordable way to protect children from dysfunctional parents, who are demonstrably incapable of properly caring for their children, is early statutory intervention and permanent removal by means of adoption by suitable families.*  
(Sammut 2011)

The use of open adoption, in which parents/carers maintain contact with their children post-adoption, has done much to make adoption a more palatable option for those

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<sup>5</sup> AIHW <http://aihw.gov.au/publication-detail/?id=10737421016&tab=2> Table 4.6

<sup>6</sup> (AIHW <http://aihw.gov.au/publication-detail/?id=10737421016&tab=2> Table 4.4 ).

<sup>7</sup> Administration for Children and Families, 2011. *Trends in Foster Care and Adoption: Financial Year 2002 – Financial Year 2010*. US Department of Health and Human Services. Available online <[http://www.acf.hhs.gov/programs/cb/stats\\_research/afcars/trends\\_june2011.pdf](http://www.acf.hhs.gov/programs/cb/stats_research/afcars/trends_june2011.pdf)>

<sup>8</sup> Selwyn, J. Frazer, L & Quinton, D. (2006) Paved with Good Intentions: The Pathway to Adoption and the Costs of Delay. *British Journal of Social Work* 36: 561 – 576

concerned about parents' rights. Parents, workers and birth families find the prospect of adoption to be less daunting when they know that children can have regular limited contact and understand their social backgrounds first-hand.

It is important to note that very few of Barnardos' adoptions are contested by birth parents. In most cases the court dispenses with their consent in favour of the wellbeing of the child. However most parents sign agreed Contact Order for the Supreme Court to consider post adoption.

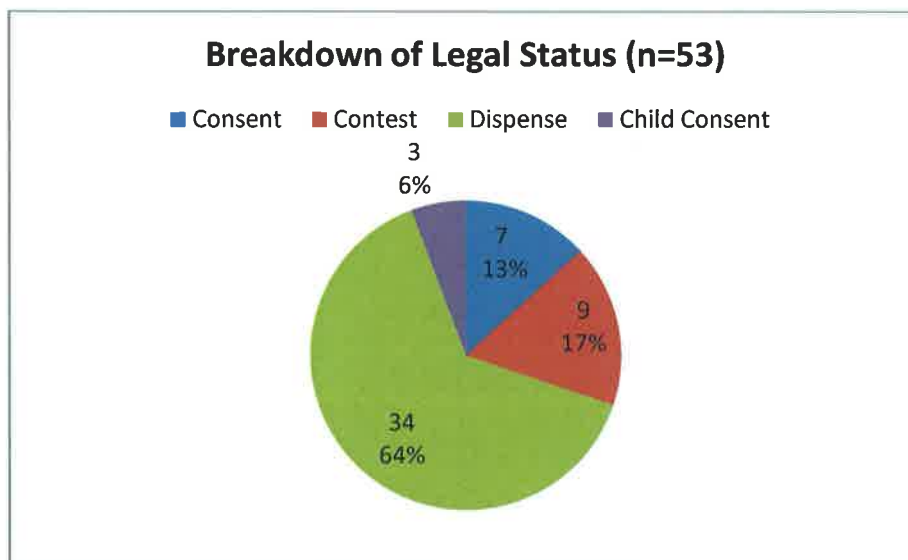


Table of the Adoptions undertaken by Barnardos Australia NSW Find a Family from 2002-2011.

Adoption has much wider social benefits. Children who have been adopted are also highly appreciative (Cox, Moggach et al. 2007) and, wherever possible, are keen to consent to their own adoption. Many infertile or caring couples appreciate the ability to have a child brought into their family. While adoption can be difficult with some older children, babies and toddlers produce few of these problems (Cox, Moggach et al. 2007).

Finally, adoption is feasible in Australia because it is manageable within the budgets of child welfare authorities and agencies. Once established staff are trained and systems operating, an adoption program can work in partnership with child welfare agencies. Barnardos operates two Find a Family programs: one in ACT and another in NSW and these operate with existing crisis and long-term foster programs. Adoption casework is comparable in costs to long-term foster care which meets accreditation standards (O'Neill, Forbes et al. 2010). On average adoptions take four years to complete, however with younger children this can be much shorter (McGarva 2011).

## **Adoption from Care is legislated for in Queensland**

The Queensland Adoption Act 2009 facilitates adoption from care. Consent of parents can be dispensed with on a number of grounds, including that the parent is not, within an appropriate timeframe, willing and able to protect the child from harm and meet the child's need for long-term stable care. Court may also dispense with consent if it feels the parent is unreasonably withholding consent.

Adoption is thus possible in Queensland, however legislation could be enhanced to bring it in line with NSW legislation, which specifically relates to adoption by carers and allows for the potential for consent of the child to their adoption. *See Appendix A.* It should also be noted that, in some Australian States and Territories, the only grounds for Dispensation of Parental Consent rest on the child's safety at the time of the Court adoption hearing. Given that the children are in foster care at the time of court appearance, it can be extremely difficult to succeed in gaining dispensation if 'current safety' is the grounds for argument. This hurdle has been most effectively overcome in New South Wales, where dispensing with parental responsibility relates to an adoption application by known foster parents, who are able to demonstrate love and commitment to the foster child. This legal framework enables adoption that gives primacy to the needs of the child and consequently adoption numbers are higher.

## **Adoption can contribute to children's wellbeing.**

As noted above and demonstrated in the 'Jumping at Opportunities' DVD (available on request) open adoption is highly valued by children and young people. This is because open adoption can free children for a normal life in the community.

If left in long-term foster care, many children suffer placement changes with subsequent traumatic interruption of their attachments; each change requires increasingly expensive interventions. A seminal study by Triseliotis (2002), as well as a significant body of other research, shows that adoption is superior to long-term foster care since it results in fewer placement breakdowns and higher levels of emotional security, as well as a greater sense of belonging and general well-being. This is true even when 'third party' orders are available as these are open to legal challenge and have the potential to disrupt placements.

The benefits of adoption are particularly important for babies. An analysis of research findings indicates that children attach most effectively to adoptive parents if placement occurs before their first birthday (Dries, Juffer et al. 2009). Furthermore, there seems to be very little advantage to the child and their parents to wait. Recent research indicates that parents who do not alter their behavioural patterns in the first six months of the child's life, are unlikely to safely care for their children. This UK study of 57 babies and toddlers attempted to assess their future in care and found *that 'all but one of the parents who had made sufficient changes (to enable them to care for the child in a way deemed safe) did so*

*before the baby was six months old' (Ward, Brown et al. 2012) .Of those who remained at home, many were significantly disturbed encountering social costs that are then required to be dealt with or addressed at a later stage (with consequent financial implications for various government and other agencies). Babies and toddlers in NSW who are permanently committed to long term foster care by the Children's Courts have typically suffered extreme abuse and neglect. Children may have parents whose substance abuse/misuse or mental illness have led to substantial neglect. There may be incidents of violence which have already led to substantial physical harm to a child and/or their siblings. In addition, many mothers have used drugs or alcohol during pregnancy and their children are born addicted and require detox. These children may suffer subtle neurological impairment, compounded by a lack of secure attachment to stable carers.*

## **Adoption can save the child protect system millions of dollars annually**

Based on NSW pricing, NSW Treasury estimates that \$37,000 per child, per year can be saved by moving a child into an adoptive family. For a two year old, where placement is assured, sixteen years of expenditure can be saved.

Savings are great because we know that babies under one year of age stay in care longer and this, combined with their high entry rate has a huge impact on costs in the child welfare system (Zhou and Chilvers 2010).

## **Implementing Adoption practice in Queensland**

Government incentive is needed to begin programs and offer incentives for adoption. Welfare workers may initially resist pursuing adoption based on unfamiliarity with adoption processes, concern arising from closed adoptions in the recent past and general lack of familiarity with research on the advantages of adoption over foster care and the poor prognosis for many babies if returned to their substance abusing parents (Tregeagle, Cox et al. 2012) . These barriers can be overcome, as Barnardos Find a Family programs show.

I would be happy to supply you with further information and could make our Senior Managers available to you for further discussion, if required.



Chief Executive

APPENDIX A Comparison of Queensland and NSW and ACT Adoption legislation.

Jurisdiction	Name of Act	Provisions for adoption of children from care	Child welfare legislation provision for Third Party Orders
NSW	Adoption Act 2000	<p>Children may be adopted by their carers if</p> <ul style="list-style-type: none"> <li>• the birth parents consent,</li> <li>• the Supreme Court dispenses with their parents' consent</li> <li>• if the child consents (aged over 12 years and has been with the carers for 2 years) and adoption is seen to be in the child's best interests and all alternatives having been considered, adoption is preferable to any other order.</li> </ul>	Sole Parental responsibility orders legislated
Queensland	Adoption Act 2009	<p>Consent of parents can be dispensed with on a number of grounds, including that the parent is not, within an appropriate timeframe, willing and able to protect the child from harm and meet the child's need for long-term stable care. Court may also dispense with consent if it feels the parent is unreasonably withholding consent. There are no specific legislative provisions related to carers; nor any requirement for consent of child to their adoption.</p>	Third Party Orders available
Australian Capital Territory	Adoption Act 1993	<p>Legislation allows for dispensation of parent's consent on grounds including neglect, ill-treatment and failure to discharge obligations of a parent. These grounds do not include the relationship of child to carers. . There is no capacity for consent of child to their adoption</p>	Enduring Parental Responsibility Orders

Table 1: Adoption and Third Party Orders in Australian State and Territory jurisdictions.

## References

Cox, E., L. Moggach, et al. (2007). "Participation and Decision Making in Older Age Adoption." Developing Practice **19**(Winter): 16-24.

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McGarva, A. (2011). Report to Barnardos Australia on Permanency Outcomes. Sydney.

O'Neill, C., P. Ban, et al. (2009). The Changing Context of Adoption. In the Shadow of the Law: the Legal Context of Social Work Practice. P. Swain and S. Rice. Sydney, The Federation Press.

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Tregeagle, S., E. Cox, et al. (2012). "Are we adequately considering children's right to a family? The importance of open adoption to young people in long-term care." Developing Practice **31**: 64-69.

Triseliotis, J. (2002). "Long-term foster care or adoption? The evidence examined." Child and Family Social Work **7**: 23-33.

Ward, H., R. Brown, et al. (2012). Safeguarding Babies and Very Young Children from Abuse and Neglect. London, Jessica Kingsley.

## Also available:

'Jumping at opportunities' DVD produced by Barnardos Australia