

# FURTHER INFORMATION FOR THE SENATE COMMITTEE

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## Background

On 18 February in Sydney, Ms Mary McKinnon, Director of Practice and Quality from Life Without Barriers, and a number of other people from organisations delivering out of home care services provided evidence during a roundtable discussion, to the Senate Committee. During this discussion the relative merits of adoption compared to other placement types were discussed.

Ms McKinnon suggested during her evidence that the discussion should not be about whether or not adoption should be part of the out of home care system. Instead we should be focusing our attention on when and how adoption might be appropriate, along with other placement types and legal outcomes. She suggested that legal orders such as adoption do not, on their own, contribute substantially to permanence and stability and that a range of other factors need to be considered and understood. Importantly, it should be noted that many children and young people have achieved stability and permanence in foster care without the need for them to have a legal severing of their family relationships through adoption and without the need for a legal change to who they are.

Overall Ms McKinnon argued there should be less emphasis on *legal* permanence and greater emphasis on *actual* permanence for all children in the care system with an emphasis on responding to the individual needs, circumstances and lived experiences of children, young people and their families.

Ms McKinnon offered to provide the Committee with a summary of the evidence around stability and permanence in out of home care with a focus on the outcomes that can be achieved in stable foster care.

## Introduction

This paper will briefly summarise how Life Without Barriers has conceptualised permanence and stability and how this conceptualisation goes well beyond a narrow legal definition. This paper will consider the factors that contribute to actual permanence and stability in care arising from research and from our substantial experience in foster care in Australia. Finally, the paper will provide a brief summation of our views about open adoption relying on the very limited amount of available evidence.

It is intended that this summary complements and extends LWBs original submission.

## What do we mean by actual permanence and stability in out of home care?

Permanence and stability are terms used frequently in the policy and legal discourse about out of home care. Yet it is not always clear what we mean by them.

Most definitions talk about children having safety and security including a place and a family, with whom they can stay until they are ready to leave home and who will continue to support them throughout life. For example, Sinclair et al (2007) talks about the presence of a “family for life”. Tilbury and Osmond (2006) define permanency planning as “the process of making long term care

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arrangements for children with families that can offer life time relationships and a sense of belonging.”

Boddy (2013) argues that a narrow focus on legal permanence may have worked against permanence and stability for many children in the “looked after” system in the UK. A summary of what she proposes as possible pathways to permanence are:

- Restoration (with appropriate and flexible supports) to family
- Shared care arrangements including regular short break care. This is consistent with the preventative respite care model proposed in our original submission and can also form part of other more traditional out of home care models
- Permanent kinship /relative care (with appropriate and flexible supports)
- Permanent foster care (with appropriate and flexible supports)
- Legal permanence (with appropriate and flexible supports) outside the care system which may include adoption, or arrangements made in other jurisdictions such as the family court.

She also argues for a more expansive view of permanence that would be inclusive of older children who do not necessarily need or want a permanent alternative family. This is consistent with our view that young people currently living in residential care settings and those children who will require intensive care or professional care models have the same needs for stability and permanency for those placed in more traditional family settings. We would argue that these children should be actively brought into the discussion about permanency and stability.

Ultimately we should have the same aspirations for and understanding of stability and permanency for children in care that we have for all Australian children. This means we should incorporate how children and young people feel and whether or not they have a sense of belonging and connectedness to the people caring for them. Whether or not children feel loved, cared for and accepted for who they are and where they come from is central to our understanding of permanence. Therefore we should understand permanency and stability through the lived experience of children and young people who have experienced out of home care regardless of where they are placed or the legal order they are subject to. What we actually do to achieve permanence and stability needs to reflect this.

## **Evidence to support adoption and foster care.**

There is a pressing lack of comprehensive out of home care research and in permanency planning in Australia (Schlonsky et al, 2013, Mayfield, 2008, Bromfield, 2007, Ainsworth and Cashmore, 2004). Although there are some signs this is improving (see for example Paxman et al, 2014) there continues to be no reliable evidence that supports adoption from out of home care per se as a contributor to improved outcomes. Schlonsky et al describe permanency planning as a particular area of need for more research and an improved evidence base, (2013, p. 12).

What evidence does exist suggests that a majority of children who remain in long term out of home care including foster care do find stability and experience a limited number of placement changes. For example, Bromfield’s (2007) synopsis found that 75% of children placed in care achieve stability within 12 months. It also found that ongoing placement breakdown caused major

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difficulties for a minority of children and that these children tended to have experienced particularly high levels of trauma before entering care.

There is Australian evidence to link stability in care with improved outcomes in young adulthood and this evidence is not linked to any particular legal order. (Cashmore and Paxman, 2007, Johnson et al, 2011). It is well supported in the evidence that a more stable experience in out of home care with ongoing support beyond the age of 18 will lead to better outcomes into adulthood. Ongoing and stable connections to families of origin also contribute to positive outcomes as adults. (Mendes et al, 2012).

The majority of evidence available to practitioners and policy and program developers in Australia is from overseas. We have tended to rely on research emerging from the US and from the UK and to a lesser extent on evidence emerging from New Zealand and other places including other parts of Europe.

Recent evidence emerging from the UK suggests that legal permanence created by adoption is not a significant factor in achieving actual permanence and stability for the vast majority of children and young people. In the UK around 5% of children in the out of home care system are subsequently adopted and almost all of these are under 5 years of age. Most are without significant behavioural challenges or extreme pre care trauma. Disruption rates for adoption converge with other children in out of home care as the age of placement increases. (Research in Practice, 2014, p. 7). Those children who experience very high levels of trauma before placement are more likely to experience placement breakdown, regardless of the legal order that is made.

Biehal (2014) found that children in long term foster care were able to achieve actual permanency and stability and that the achievement of stability for all children was dependent on other factors, not legal permanence. The behaviour and attributes of carers were very important in the achievement of stability and security especially the willingness of carers to fully include children in routine family life. Biehal and her colleagues (Biehal et al, 2010) have conducted an extensive study in the UK entitled "*Characteristics, outcomes and meanings of four types of permanent placement*". The study explored the lived experience of children and young people and how they felt about their placements. It found that children in long term foster care were just as likely as children who had been adopted to experience *actual* permanence.

The study also found that regardless of the type of placement (adoption or long term foster care) the need for higher levels of support from outside the family were similar and were dependent on each child's individual circumstances rather than being influenced by the legal order they were subject to (cited in Adoption Research Initiative, 2011). The research found that approximately one third of long term placements – both adoption and foster care – continued to have ongoing needs for support. This research was supported by Selwyn (cited in Fronek, 2015) who found that around one third of adoption placements (from foster care) in the UK continued to have high support needs.

A comprehensive review of research on permanence for the UK Government in 2013 found there was powerful evidence that foster care, along with family and friends care can provide permanence and high quality care throughout childhood and beyond. (Boddy, 2013)

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## Factors that contribute to *actual* permanency and stability in long term placements.

### Child and Family Factors

#### **Age of the child at placement.**

This is a very significant factor. Regardless of the legal order or the type of placement the age of the child at placement is a key determinant. Children who experience placement at younger ages are more likely to experience stability. (Biehal et al, 2010, Research in Practice, 2014, Fronek, 2015, Boddy, 2013). The chances of stability reduce every year that passes and disruption is considerably more likely if placement occurs after the age of 4. (Fronek, 2015)

(In Australia well over 50% of children enter the out of home care system when they are over 5 years of age. The median age of entry is 6 years. (AIHW, 2014).)

#### **Well supported and high quality family contact and relationships**

Well supported and high quality family contact and relationships with children's birth family, including extended family and siblings, contributes positively to permanency and stability. This is supported by children's lived experiences of family contact (Create, 2014). Ongoing and secure relationships with family are linked to better outcomes well into adulthood. (Mendes et al, 2012.)

High quality family contact should, be understood in terms of the lived experience of family contact by children and young people.

#### **Trauma experiences**

Children and young people with high levels of trauma, including those who have suffered extreme levels of pre out of home care abuse and neglect and those who have suffered particularly traumatic removal experiences and /or abuse in out of home care are likely to find it more difficult to settle in care and find security (Osborn and Delfabbro, 2006). Biehal (cited in Adoption Research Initiative, 2011) makes the point that we still don't know whether it is predominantly the pre placement experience of trauma or in care trauma that is most difficult for children and young people to overcome. Life Without Barriers would argue that this is likely to vary significantly depending on the individual circumstances of children and young people.

#### **Children with disabilities**

It is more difficult to find long term placements for children with disabilities including adoptive placements. Children with disabilities also experience higher levels of instability in care. (Cousins, 2005 and Schormans et al, 2006).

#### **Children of diverse cultural backgrounds.**

Research from the US suggests that children of colour are less likely to find stable placements despite them being relatively highly represented in the care system. (Kemp and Bodonyi, 2000) This is supported by the UK experience (Thomas, 2013). There is no research on this issue in Australia that we are aware of although we do know that Aboriginal children are very much over represented in the out of home care system and that this situation is currently worsening (see our original submission for more discussion on this issue).

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## Practice or systemic factors

### **Pre placement planning and ability to find suitable carers.**

Tilbury and Osmond (2014) found that pre placement planning which allows for continuity of existing relationships and connections, including schooling and social networks is important to contribute to an eventual stable placement in foster care.

Held (2004) found that increased placement choices were needed to ensure the emphasis was on finding the right carers for children, not any carers in a crisis.

### **Family Inclusive Policy and Practice**

Respectful relationships between workers and family and ongoing family /child relationships and family contact can contribute positively to stability of long term foster placements and to more positive outcomes well into adulthood. (Thorpe and Thomson, 2003, Mendes et al 2012).

The voices of family are important parts of the policy debate and discussion in child protection and out of home care and more ways need to be found to be inclusive of family in policy and program development.

### **Quality casework and other support**

Carers of all kinds indicate that they value and need casework support from a reliable and consistent caseworker. (McHugh et al 2004). Carers indicate that the availability of casework support is crucial to their ability to provide stable care. This also applies to other types of care including kinship care and adoption (see McHugh, 2013 for a discussion on the support needs of foster /relative/ kinship care and Adoption Research Initiative, 2011 for adoption.) It is the nature of the individual needs and circumstances of children and young people that is the key determinant of the need for casework support. The need for higher levels of support for children in relative and kinship placements is explored in our original submission.

Casework support includes the development and maintenance of respectful and close relationships with carers, family members and most importantly, children and young people. Casework support and review are a crucial way that we meet our obligations under the UN Convention of the Rights of the Child to provide special support to children who cannot be cared for by their own families.

Life Without Barriers would argue for supports to be developed around children that meet their individual needs. This will mean multi-disciplinary supports at times including evidence based programs such as Multi Systemic Therapy. Our original submission provides more discussion of this. Other supports vital to maintain stability in our experience are:

- Educational supports (see our case study in our submission as an example)
- Cultural exploration and connection building (see our case study in our submission as an example)
- Therapeutic support from skilled and experienced professionals able to work in partnership with carers and young people
- Youth work support and mentoring can be very helpful
- Regular respite care

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## **Placement stability.**

As discussed previously the experience of a stable and secure placement is crucial to children's lived experience of permanency. Australian evidence suggests that the majority of children (75%) placed in out of home care achieve a stable placement within 12 months.

It cannot be overstated that the quality of care in foster care is crucial to long term stability. A skilled and loving foster carer and his or her network of support has the ability to make an enormous difference in the life of a child. Life Without Barriers sees this happen every day in our work with carers and children.

## **Open adoption from out of home care.**

Adoption law in Australia is becoming increasingly open. Life Without Barriers welcomes this trend as it has the potential to improve the adoption experience for children, adoptive families and birth families and ensure that relationships with birth families can be continued and enhanced. We believe strongly that this is a more child centred approach that has the potential, with appropriate supports, to reduce the profound experiences of grief and loss that have previously been associated with the experience of adoption for both birth parents and children. Open adoption has been heralded as meaning that the adoption experiences of the past will not be repeated as children will grow up knowing they are adopted and knowing their birth families.

However, little is known about the actual experience of open adoption and almost nothing is known about open adoption from out of home care. Our traditional understanding and practice of adoption in Australia has been founded on consent and the voluntary relinquishment of infants by their parents (usually mothers) to the care of alternate families. This is very different to adoption following the involuntary removal of children from their families and the subsequent adoption of that child, sometimes without consent from family.

Research into open adoption in Australia is very new. But what little research there is suggests that a truly open adoption may be difficult to achieve. Castle (2014) found that even voluntarily relinquishing birth mothers found it very difficult indeed to maintain regular contact and an openness in relationship with their children despite the existence of a post adoption contact plan. There were a range of reasons for this lack of openness including the loss and grief experienced by mothers and the difficulty of maintaining positive relationships with adoptive parents.

There has been no research that we are aware of to consider the openness of arrangements when a child is adopted from out of home care in Australia. However research from the US suggests that open adoptions from out of home care are considerably less open than adoptions that occur privately despite the existence of legislation and rules that requires adoption arrangements to be more open. (Faulkner and Madden, 2012). Life without Barriers believes more research into the effectiveness and practice elements underpinning successful open adoptions from out of home care as a permanency option for children would make a valuable contribution.

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## Conclusion

Life Without Barriers argues we should focus on the needs of individual children and young people in care and whether or not adoption, from a suite of alternatives, should be considered. We consider that adoption is only likely to be suitable for a small number of children relative to the overall numbers of children in out of home care in Australia.

The evidence suggests strongly that that other permanency options, such as permanent care orders used in Victoria, that do not change the legal parenthood of children can offer children and young people actual permanency. The evidence suggests that permanency and stability should be pursued for all children and young people and that it's achievement or otherwise is best understood through the lived experience of children and young people. Many children and young people in Australia are currently enjoying stable long term foster care placements where they are experiencing actual permanency.

Thankyou for the opportunity to provide further information to the Senate Committee.

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