

**Submission
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CHILD PROTECTION AND SOCIAL SERVICES SYSTEM

Organisation: Barnardos Australia

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Inquiry into the child protection and social services system



Barnardos
Australia

To:	Committee on Children and Young People Parliament of New South Wales
Email:	childrenyoungpeople@parliament.nsw.gov.au
From:	Barnardos Australia
Contact:	Dr Robert Urquhart Head of Knowledge, Outcomes and Research ████████████████████
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Barnardos Australia (Barnardos) thanks the Joint Parliamentary Committee on Children and Young People for the opportunity to provide a submission to its Inquiry into the child protection and social services system.

Overview of Barnardos' programs and service

Barnardos is a not for profit children's social care organisation, providing family support and out-of-home care (OOHC) to 13,654 children and their families in the Australian Capital Territory (ACT) and New South Wales (NSW) during 2019-20. Of these, 12,241 (89.7%) families were able to keep their children safe at home with tailored support, and 1,413 (10.3%) children lived safely in Barnardos' auspiced foster and kinship care. For non-Aboriginal children living in foster and kinship care supported by Barnardos, 61 orders for open adoption were made by the Supreme Court, this represents 35% of all NSW adoptions from out-of-home care (OOHC) in the 2019-2020 financial year reporting period.

In Barnardos' extensive child protection-focussed family support work, our interventions target vulnerable children at risk of separation from their families and statutory removal into OOHC. Our services are targeted to the most vulnerable communities where child at risk notifications to statutory departments are high, with associated child removal rates into OOHC. For 100 years, Barnardos has worked with children, young people and families to break the cycle of disadvantage, creating safe, nurturing and stable homes for children, connected to family and community.

Barnardos works with families as they are experiencing the toughest of times. Our practice is child-centred, multifaceted and evidence-based. Our longstanding experience as a leading Australian service provider, combined with a strong commitment to research, and the need for evidence-based practice, means that we are able to specialise in working with the most vulnerable children and families. This extensive experience, understanding and commitment informs our views on the effectiveness of the child protection and social services systems in responding to vulnerable children and families. Key features of Barnardos' practice include:

- 90% of the families supported by Barnardos are in programs designed to keep children safe at home with their parents. For an example of our work, see the story of Sherryn, a 32-year-old mother with an extensive child protection history and whose oldest child is in long term OOHC: <https://youtu.be/UDOnkpojsqY>
- Barnardos' Children's Family Centres provide community-embedded individualised support for children and their families who are impacted by child protection reports; chronic poverty; substance abuse; family, domestic and sexual violence; homelessness; and mental illness.
- Where a NSW Children's Court has decided that children are unable to safely live at home, Barnardos outcome-focussed programs are able to deliver the full spectrum of permanency outcomes which enable children to experience a safe, stable and secure childhood with positive life outcomes. Barnardos is the largest provider of the full suite of permanency outcomes for vulnerable children in NSW, inclusive of restoration, guardianship and open adoption (in addition to foster and kinship care).

Our experience tells us that on the whole families need our services because of the impact of intergenerational and recurring experiences of trauma, combined with the effects of entrenched

social and economic disadvantage. It is also evident that domestic and family violence is a crucial reason for referral of families entering our services.

In 2019-20, 19% of referrals for children, young people and families to Barnardos Children Family Centres was for support directly related to domestic and family violence.¹

We note the very high level of vulnerability of the children and families accessing our Children's Family Centres. For example:

- In metropolitan Sydney, 28% of our referrals for families to homelessness programs are due to domestic violence.²
- In rural and regional NSW, domestic and family violence continues to be the number one referral reason to Barnardos homelessness services, mostly for women with children.³
- In Penrith, 90% of referrals for families to our intensive family preservation program (for families who have children at risk of significant harm and are at risk of placement in OOHC) have domestic and family violence identified as one of the main reasons for referral.⁴

NSW child protection reform history – 2008 to present

Over the past 10 years there has been a raft of child and family sector reforms in NSW, aimed at driving governance and partnership relationships that would enable an evidence-based early intervention approach to improve outcomes for vulnerable children and families in NSW. Of particular relevance to the current Inquiry, we note the following policy developments:

- In 2009-2014, the *Keep Them Safe: A Shared Approach to Child Wellbeing* action plan (KTS) increased the threshold for reporting vulnerable children and young people to the Child Protection Helpline to that of 'risk of significant harm' (ROSH). It also established Child Wellbeing Units in the four government agencies incurring the largest number of child protection reports (NSW Health, NSW Police Force, Department of Education and the then Department of Family and Community Services).
- The KTS action plan ramped up the role of non-government organisations (NGOs) in service delivery via enhanced NGO service delivery and committed the government to progressive evaluation of outcomes for vulnerable children and young people.
- In 2012, the government began the large-scale transition of foster care to the NGO sector⁵ in response to the *Wood Special Commission of Inquiry into Child Protection Services in NSW* findings (2008) on the suitability of government foster care for children. An objective of this transition was to permit then NSW Department of Community Services caseworkers to focus on the most vulnerable families and in so doing prevent children coming into OOHC. The reform was envisaged to take place over 5 to 10 years.

¹ MyStory Referral Analysis Report for NSW (Barnardos Agency) and ACT Together Safety and Prevention programs, 2019-2020.

² MyStory Referral Analysis Report.

³ MyStory Referral Analysis Report.

⁴ MyStory Referral Analysis Report.

⁵ NSW residential care was previously transitioned to NGOs in the 1990's following closure of government institutions

- As part of the action plan, a network of Family Referral Services (FRS) was also established and legislative changes were enacted to permit information exchange to encourage a shared approach to child protection. The Brighter Futures early intervention program targeting children aged 0 to 8, and which had begun rollout in 2003-2004, was also extended to include work with non-voluntary clients.
- In October 2014, the further *Safe Home For Life* reforms built on KTS and introduced permanency placement principles into the NSW Care Act legislation, providing a legislative commitment to guardianship orders for kinship carers and more actively supporting open adoption from foster care where this best meets the needs of the child.
- In 2015, the *Report of the Independent Review of Out of Home Care in New South Wales* (the Tune Review) found the current NSW system to be ineffective and unsustainable.
- The Review found that investment was not aligned with the evidence base, and that resource allocation was crisis driven. The Review observed that the then Department of Family and Community Services (FACS) had “*minimal influence*” over service demand drivers and that the system had failed to improve long term outcomes for vulnerable children and families.
- As an urgent remedy, the Review recommended the staged introduction of personal support packages, starting with children and young people in out of home care or at risk of imminent removal.
- The Review recommended that a new funding entity be created based on commissioning principles, separate from FACS. Under this new entity’s umbrella, it was envisaged that Local Cross Agency Boards be established in each district whose role would include commissioning and procuring services under personalised support packages.
- The Review specifically cautioned against maintaining the status quo with investment and commissioning, warning that “*reliance on existing governance arrangements, with all the systemic deficiencies noted...would place implementation of the Review recommendations at great risk*”.⁶
- Despite the overwhelming case for the need to achieve a coherent investment approach, this critically important element of an independent commissioning arrangement has never been implemented.
- Commissioning and procurement of services have remained internal to now Department of Communities and Justice (DCJ). Consequently, there has been a dilution of influence across cross-agency resources, as well as a lack of genuine stewardship of building capacity in the service sector and drive funding redirection. This has resulted in a diminution of the objective allocation of resources based on evidence.
- Consistent with the Tune Review, we believe introducing an independent commissioning approach is the single most crucial system-wide change the Inquiry can recommend to ultimately improve outcomes for vulnerable children and families. One that is not solely comprised of government representatives.

⁶ Tune, D. (2015). *The Report of the Independent Review of Out of Home Care in New South Wales*. Final Report. NSW Government: Sydney, p. 5.

- In 2016, the Their Futures Matter (TFM) reform was launched as a whole-of-government response to the Tune Review's key findings on improving outcomes for vulnerable children and young people. FACS diverged from the Review's findings and established governance entities that were not independent of their department and their child protection and OOHC systems. TFM instead established governance entities within the cluster rather than creating a stand-alone authority. It critically did not embed NGO partner representation to develop solutions and strategies for the system transformation.
- The achievements of TFM included the development of a new cross-agency TFM Human Data Set to enable the identification of the characteristics of vulnerable children and families, their levels of vulnerability and the points for effective early intervention to assist them. With the addition of further data sets this has provided a sound basis for the predictive modelling of at-risk cohorts and their future service demands. The introduction and piloting of evidence-based models including (e.g. *Functional Family Therapy - Child Welfare*; *Multisystemic Therapy for Child Abuse and Neglect*) was a further significant achievement of TFM to support seriously at-risk children and young people.
- From October 2017, the Permanency Support Program (PSP) was implemented via new OOHC contracts for NGOs, based on the permanent placement hierarchy now within the Care Act legislation. Introduction of the PSP reform changed the way OOHC NGOs were funded to set new expectations regarding working towards permanency from the point at which a child or young person first enters care.
- A key component of the PSP reform was working intensively with birth parents and families to support change through a strengthened emphasis on intensive family preservation services' funding.
- Barnardos notes with concern that PSP contracts were commissioned as outcomes based (i.e. NGOs were to be paid on outcomes delivered according to child case plan goal within the NSW legislative permanency hierarchy), however due to implementation challenges, unintended consequences and ongoing concerns with data, this has not been achieved. For example, Barnardos and other NGOs have anecdotally advised that their contracted numbers are falling. This is despite Barnardos being the largest provider of the full suite of permanency outcomes under the PSP, and numbers of new entries to OOHC remaining stable over the last three financial year periods (17/18, 18/19, 19/20) at around 2,200 entries per year.
- In July 2020, the Auditor-General for New South Wales released a report examining the effectiveness of the governance and partnership arrangements that were used to deliver TFM.
- Critically, the report found that the TFM evidence base was not sufficiently robust to determine whether or not interventions already provided by NGOs or piloted under TFM were effective in terms of supporting vulnerable children and families. Moreover, outcome evaluations were not available for most TFM pilots nor were comparable outcomes based on a common evaluation framework likely to be available for a number of years, greatly hindering decisions on prioritising investment.
- Some TFM funded programs, including the evidence based models (EBM) for *Functional Family Therapy Child Welfare* (FFT-CW) and *Multi-Systemic Therapy Child Abuse and*

Neglect (MST-CAN), have now been converted by DCJ to ongoing contracted service delivery and Barnardos is supportive of these initiatives. However, we note that model fidelity is crucial to the EBM outcomes achieved. For families who do not meet the very tight referral criteria, the NSW child protection service system is still lacking.

How vulnerable children and families are identified and how the current system interacts with them including any potential improvements, particularly at important transition points in their lives (*Terms of Reference 1*)

Unintended consequences

Barnardos' recognises that at an early phase of any ambitiously staged policy implementation, unintended consequences are inevitable. However our current experience in the fourth year of the PSP reform is that decisions are sometimes being made by statutory child protection workers that prioritise restoration or placement with kin without sufficient consideration for safeguarding of children who are suffering harm, or where there is a significant level of risk of future harm.

Publicly available data on the rate of re-reporting of significant harm for children (ROSH reports) is troubling. The trend data for re-reporting rates (children re-reported within 12 months of case closure)⁷ shows that:

- the June 2020 re-reporting rate target of 34.4%⁸ was not met (actual rate 38.6%);
- the start of 2019-2020 FY saw a steep rise in ROSH re-reporting rates from 35.8% (Q4 2018-2019) to 39.5% (Q2 2019-2020);
- there is no evidence in publicly available 2020 data to date of any COVID related impact on re-reporting (rates in Q3 and Q4 2019-20 remained stable at 38.6%); and
- NSW may not be on track to meet the June 2023 re-reporting rate target of 32.3%⁹ (the most recently available rate is Q4 2019-2020 being 38.6%).

The key transition point for children living in families where there are child protection concerns is potential or actual entry into the OOHC system. This has been the focus of the PSP reforms, however our experience on the ground is that we have yet to get this right - in terms of delivering outcomes for children that are truly child-focussed, and timely for their developmental needs.

While the focus of the PSP reform has correctly been for the removal point to act as catalyst for work to be done on establishing whether or not the child can be successfully restored home, it is concerning that anecdotal evidence from Children's Courts is that Magistrates are not satisfied that the necessary work of accurately and quickly differentiating children who can safely remain home and those who cannot is not being done sufficiently or adequately during the period of Interim Order while the child is still before the Court.

⁷ Department of Community and Justice, Caseworker Dashboards (2017-2018 to 2019-2020).

⁸ Department of Community and Justice, Caseworker Dashboards 2018-19 Quarters 2,3,4

⁹ Department of Community and Justice, Caseworker Dashboards 2019-2020 (all Quarters) and 2020-2021 Quarter 1

Barnardos' observation is that NSW Children's Court Magistrates are concerned at being requested to make 2 year Orders for children when sufficient early work has not been done with a family to verify feasibility of some proposed Care Plans for restoration or guardianship, and are therefore continuing in many cases to make long term PR Orders for children to the age of 18 years.

Further, the time for achievement of restorations since the introduction of the PSP has actually lengthened. Barnardos has a longstanding history of restoration practice and through Barnardos Temporary Family Care (TFC) Program, we have worked with families where the Children's Court has identified that the child could be returned home safely, with appropriate support and services over time.

For the last few years, Barnardos has undertaken actuarial analysis¹⁰ of its restoration outcomes data to ensure maintenance of program fidelity and realisation of positive outcomes for children and their families with a case plan goal of restoration.

Since the introduction of the PSP, the average time-frame for achievement of a restoration by Barnardos has increased from 8 to 12 months. In the life of a child, particularly younger children under 5 years of age, this timeframe is concerning. See **Appendix B** for a summary of the trend in duration of restoration drawn from the independent actuarial analysis of our restoration outcomes since 2012-2013.

Barnardos has been an open adoption specialist (for non-Aboriginal children) for over 30 years and is the only NGO that has consistently achieved approximately 1/3 of total NSW adoptions from foster care. However, since the introduction of the PSP the number of referrals from the Department has consistently dropped from an average of 50% to 0% of total referrals. Other referrals are drawn from Barnardos Temporary Family Care Program. Despite efforts to engage DCJ to address, there has been no impact to date. Anecdotal evidence from the Children's Court also suggests that Care Plans for open adoption are not being actively presented by DCJ child protection workers.

Anecdotally, it is apparent that when children are being removed, they are increasingly being placed with family and kin, without adequate assessment, for potential guardianship, and are being case managed by DCJ. This may also be causing the drop in referrals into Barnardos' Open Adoptions Program. However, there is no data publicly available to support this.

While Barnardos is not disputing the importance of keeping families together, whether through preservation, restoration, or placement with relatives and kin if a child must enter care, it is highly concerning that there has been such a significant drop in referrals and particularly for young children under the age of 5 years who continue to constitute more than half of all new entries to OOHC. See **Appendix B**, which shows the slowing of referrals of children entering Barnardos' Open Adoptions Program, who nevertheless have a very high chance of exiting OOHC due to adoption. The case studies in **Appendix A** demonstrate the high-quality outcomes of Barnardos' open adoption work with children, young people and families.

If nothing is done, Barnardos will not be able to sustain an adoption program of its current size and scale and the largest NGO provider will no longer be able to contribute to 1/3 of all OOHC

¹⁰ by Professional Financial Solutions Pty Ltd PFSCONSULTING.COM.AU

adoption orders realised. This, in turn, will be putting at jeopardy the realisation of a critical NSW Premier's Priority.

This further calls into question the legitimacy of DCJ Commissioning Framework if an NGO who is one of the largest providers of the suite of PSP permanency outcomes with proven practice excellence and achievement of outcomes, is not receiving appropriate referrals

Current systemic issues and trends for consideration

Barnardos observes the following key issues and trends which are impacting on how the current system interacts with vulnerable children and families particularly at the most important transition point in their lives (potential or actual entry into care), and changes that could be made to improve outcomes for these children and families:

Data

- Since the introduction of ChildStory, there is a lack of reliable, accurate and transparent data. Barnardos acknowledges the size and scale of replacing a client management system for the biggest statutory child protection system in the Southern Hemisphere and does not wish to understate how challenging it is to design and implement. However, the fact that this difficulty persists, and that the sector does not have access to the data required to be evidence-driven and informed, is highly problematic.
- A key example is that consistent reporting on outcomes achieved for children, beyond general information about exits from care, is not routinely and consistently available. Noting the agreed focus on outcomes, more attention needs to be focused on this critical area. Unless we turn our minds to this, we will not achieve our common vision of sustainable, positive outcomes for vulnerable children.
- It was an original design intent that ChildStory could link with NGO client management systems, so as to enable holistic views of children and to reduce administrative burden. NGOs possess a depth of data about the children and families they work with, and due to current challenges, this cannot seamlessly be shared with the Department. While there are always caveats around real-time data, if we want to be more agile and identify challenges or opportunities early, we need to be making better use of these types of metrics. This is most evident in the case of referrals from the Department to NGOs as there is currently no protocol for sharing and analysing system-level referral information.
- Barnardos is not advocating for further investment in technology, but better use of available data with a design process led by the non-government sector.

OOHC Entries and Exits

- Publicly available data on OOHC entries are concerning. The limited data available, despite being the unwavering focus of previous reforms, and notwithstanding the substantial resources committed to various interventions, including the newly funded programs via the TFM reform, indicates no appreciable difference to the numbers of vulnerable children entering care.
- The age breakdown of OOHC entries for the latest financial year has not yet been publicly released. However, we know from trend data for the previous five financial years, the proportion of babies and young infants entering care has not been reducing. This is

troubling given the known impact of age of entry into care on children's long-term developmental trajectories. The trend for OOHC entries over the last five financial years¹¹ show that:

- There was a significant drop in entries between 2015-2016 to 2017-2018 (3,813 to 2,238 or 42%). However, the number in care at 30 June 2018 reduced by only 6.8% for that period, from 18,659 to 17,387;
- For the most recent three-year period, the number of children entering care are 2,238 (2017-2018) 2,169 (2018-2019) and 2,203 (2019-2020) respectively. Overall entries are hovering around the 2,200 mark over the period and remarkably stable.
- OOHC entries have effectively been stable, rather than declining, for pre-school aged children over the same period that PSP contracts have been in place¹².
 - Children 0-5 are more than half (52%-53%) of all entries to care in 2017-18 and 2018-2019.
 - The number of entries for children 0-3 for 2017-2018 and 2018-2019 were also stable (932 & 913 respectively).
 - Children 0-3 were around 42% of all entries to care in 2017-2018 and 2018-2019.
 - Children 0-3 constitute 79% of the 0-5 entry group over the periods 2016-2017, 2017-2018 and 2018-2019.
 - Children entering care at aged under 1 are consistently 20-22% of all entries to care each year over the 5-year period.
 - Children entering care at aged under 1 constitute around 40% of the under 5 year old entries over the 5-year period.
- We note that previous reforms have focussed on increasing exits of children who have newly entered care in a time frame appropriate to their developmental needs at age of entry. Increasing child exits from OOHC, to planned permanency hierarchy associated outcomes, was the explicit intent of the PSP reform to be achieved via the increased focus on specification of outcomes at the point of court order, and planning for outcomes within the legislated two-year period. However publicly available data on OOHC exits shows no evidence that these initiatives are having the desired impact, because the largest group of children entering care (children aged under 5 years old) are not exiting in a timely manner.

The trend for OOHC entries over the last five financial years¹³ show that:

- The total child exits trend over the previous five year period, which has varied from 2,590 (2015-2016), 2,778 (2016-17), 2,649 (2017-18), 2,374 (2018-2019) and 2,823 (2019-2020) respectively, has not been as consistent as trends in child entries.

¹¹ Department of Community and Justice, Quarterly Statistical Report Dashboard 3 (2014-2015 to 2018-2019); Department of Community and Justice, Caseworker Dashboards (2019-2020).

¹² NSW PSP contracts commenced 1 October 2017

¹³ Department of Community and Justice, Quarterly Statistical Report Dashboard 3 (2014-2015 to 2018-2019); Department of Community and Justice, Caseworker Dashboards (2019-2020).

- The 2 year drop in entries during 2015-2016 and 2017-2018 was not reflected in a similar proportional change in exit numbers for the same period.
- Exits of children aged 0-5 as a percentage of all exits are trending down over the past 5 years. These were 24% (2015-2016); 22.4% (2016-2017); 24.6% (2017-18) 21.2% (2018-2019) and 21.5%(2019-2020) respectively.
- Exits of children aged 0-3 as a percentage of all exits remain stable at around 14.5% over the past 5 years.
- Young people aging out of care (turning 18) consistently constitute more than 1/3 of all exits from care each year over the past 5 years (ranging from 31.6%-35.9%).
- The fact that children under five constitute more than 50% of entries and approximately 22% of exits is a cause of concern as this indicates a lack of timely consideration for permanency planning principles for very young children.

The respective roles , responsibilities, including points of intersection, of health, education, police, justice and social services in the current system and the optimum evidence based prevention and early intervention responses that the current system should provide to improve life outcomes (Terms of Reference 2)

- Noting the limitations identified above with the realisation of the strategic intent of the Tune Review under TFM, there has been little strategic change in how adjacent service systems interact and support common clients since KTS.
- Barnardos recognises that bringing together funding and services currently managed by other departments, in particular health and education, was a key objective. However, as well known this has not been realised.
- Rather than continue to focus on changing individual department cultures, policies, and processes, the focus should be on how the PSP funding model can be enhanced by introducing education and health packages. This would also serve to continue to shift the focus to individual children and their families, which is the overarching intent of all previous reforms.

The adequacy of current interventions and responses for vulnerable children and families and their effectiveness in supporting families and avoiding children entering out of home care (Terms of Reference 3)

The adequacy of funding for prevention and early intervention services (Terms of Reference 6)

- Enhanced investment in preservation funding is required to ensure an optimal balance of resources available to keep families together and avoid children entering care.
- Little work has been done to bring other NSW funded family preservation programs within the PSP program. As a result, the sector and its clients, continue to be exposed to a complex service system with multiple programs, often with common objectives and criteria. Further, NGOs are increasingly burdened by multiple funding agreements, with onerous

performance and reporting requirements. Many NSW family support and preservation programs are poorly funding with inadequate ongoing contractual arrangements.

- Effort is required to streamline the system and incorporate these programs with the PSP. For example, Barnardos has consistently advocated that separately funded Intensive Family Preservation program funding should be incorporated into the PSP.
- As a result of this not occurring, families supported by Barnardos and other NGOs were recently subject to significant uncertainty when this program was put in jeopardy because of the impact of the pandemic and associated NSW Government fiscal challenges. This was at a time when funding to support the most vulnerable was required more than ever.

The child protection intake, assessment, referral and case management system including any changes necessary to ensure that all children assessed as being at risk of significant harm receive a proactive and timely in-person response from child protection staff (*Terms of Reference 4*)

- Considerable effort has been made in recent years to improve the responsiveness of the statutory child protection system. Since the introduction of the caseworker dashboard, there have been considerable gains made in the number of caseworkers, the associated DCJ caseworker vacancy rate, and the number of children at ROSH seen by the Department.
- While the intent behind the PSP was to provide the Department with more information about children case managed by NGOs (as per their role as funded and delegated of the Minister with Parental Responsibility), since the introduction of the PSP reforms it is Barnardos' experience that tensions between the Department and NGOs over the right permanency case plan goal for individual children have not only continued but have increased.
- It is a common shared view and part of DCJ case management policy that decisions should be made as close to the child as possible. Further, that NGO caseworkers (who have relationships with children and their families), are best placed to make decisions about the permanency pathway.
- However, NGO decisions are not uniformly being respected, and Barnardos skilled practitioners are routinely questioned when there are no case related grounds to do so. This has often resulted in alternative permanency outcomes being pursued. Anecdotal evidence suggests this is also the case with other NGOs.
- Barnardos is the only NGO in NSW with delegated parental responsibility and can therefore make decisions normally made by the Department. This reflects our longstanding history of practice excellence.
- This situation is neither helpful nor useful. It consumes scarce resources on all sides without tangible benefits for the children.

The availability of early intervention services across NSW including the effectiveness of pilot programs commissioned under Their Futures Matter program (*Terms of Reference 5*)

- The 900 MST-CAN and FFT-CW contracted places are being reported on the DCJ Caseworker Dashboard under Early Intervention and Preservation (along with Brighter

Futures, IFBS, IFPS and Youth Hope). There does not appear to be any publicly available information on the trial of Treatment Foster Care Oregon (TFCO) or the Department's internally commissioned pilot.

- MST-CAN and FFT-CW are the only programs with detailed numbers of 'actual families accepted'. Why is information on the number of 'actual families accepted' into the other 4 programs not available?
- Agencies have advised that MST-CAN and FFT-CW contracted places are also being used for children in Alternative Care Arrangements (ACAs) and to enable restoration from foster care. This was not the initial intent of these programs when commissioned by TFM as Early Intervention and Preservation to keep children at home and prevent entries to care.
- Commissioning of these programs has been one of the only TFM achievements. However, there is a lack of public information about outcomes achieved.
- Further strategic work is required to ensure that existing programs and local models, that have long standing histories of achieving outcomes, are recognised and supported to grow and expand. It is currently a significant gap that there is no systemic approach to supporting existing services and programs augment their evidence base.
- DCJ needs to be cautious about its commissioning approach, which has provided an unfair advantage for some NGOs if they decide to procure more. Those unsuccessful first time, inclusive of smaller NGOs, won't be able to compete.

We would welcome the opportunity to discuss any aspect of our submission. Please feel free to contact [REDACTED]

Appendix A – Case Studies

Decision making for permanency: unsuccessful restoration following permanent placement

Key issues

Barnardos Australia strongly supports the current NSW Permanency Support Program policy and practice reforms for vulnerable children and has a long history of delivering permanency outcomes for children. Barnardos established programs provide restoration to family, family finding with relatives and kin, and open adoption, in addition to specialised permanent foster care. However, in the current PSP environment we are aware of emerging unintended consequences, particularly for young children.

Some of these consequences include:

- A trend to interpretation of permanency within adult time frames as opposed to child development needs
- A negative impact on children's attachment needs and timeframes due to prolonged lengths of time taken to make final decision about their permanency post-Court
- Exposing children to further risk of abuse whilst restorations are 'tested' for up to 2 years, and
- Reducing the pool of permanent carers, including prospective adopters, due to delay in reaching a permanency decision.

The following case example highlights some of these issues, and the unacceptable risk to children when restoration is prioritised above alternative forms of permanency and stability subsequent to a long term Order made by the NSW Children's Court. Particularly where (as in this case example) there is clear established evidence of significant risk to children. This case demonstrates an urgent need for reviewing the process of decision making for restoration when children are on long term orders and stable in care with dually authorised carers. In this case the children concerned had a longstanding case plan goal of open adoption, however restoration to family was actively supported by statutory child protection workers.

Case details

This case concerns a family with longstanding NSW statutory child protection involvement and five children, and directly concerns the four youngest children who are now aged 15, 11, 10 and 5 years.

In November 2011, three of the children (then aged 7 years, 3 years and 20 months) were removed from their parent's care, and six months later a Care Order allocating Parental Responsibility to the Minister until age 18 was made. Post Final Order the children remained in a (then FaCS) short term placement for an extended period to May 2013, at which time they were referred to Barnardos for permanent placement. The children by that time had been in temporary care for almost 2 years.

Barnardos placed the three children together in intake foster care whilst undertaking specific recruitment for the sibling group. In January 2014 the children were placed with dually authorised permanent carers, and a Case Plan Goal of open adoption was progressed.

Following the birth of a fifth child in 2014 these children's parents filed a Section 90 application in the Children's Court supported by FaCS, but unknown to Barnardos. Barnardos was not aware of this application until served notice by the Children's Court, despite holding Parental Responsibility for the children since May 2013 and being the only agency to have had ongoing contact and oversight of the children for almost two years (including facilitation of family contact visits).

Barnardos actively opposed the Section 90 application on the basis that the children were stable and well cared for in permanent care, and by that time had been with dually authorised carers with a view to adoption for a period of two years. However, supported by FaCS, the children were restored to the care of their biological parents in January 2016.

On restoration of the children a six month Supervision Order was made which Barnardos agreed to supervise in order to provide caseworker continuity for the children. Within three months of restoration at least three risk of significant harm (ROSH) reports and six non-ROSH reports had been made, and the children's mother was involuntarily admitted to hospital due to mental health concerns. At this time the parents were responsible for 4 children under the age of 10, including the youngest who was under 2 years of age.

Despite an established and substantiated history of risk dating back to 2006 as well as the current known risk to the children, there was no extension of the six month Supervision Order (despite Barnardos request and offer to continue oversight, as we were extremely concerned for the children) and a Parental Responsibility Order was made to the parents.

Three months later, in December 2016, all four children were removed following a domestic violence incident and fortunately the Barnardos dually authorised carers were not only still available but also willing to take the three children previously placed with them back into their care, and also the additional child. A Final Order was once again made for the children to remain in the care of the Minister until age 18 in July 2017.

Outcome

On return into care significant regression was evident for these children, in particular for the oldest sibling who had previously been accepted into an academically selective class, but who now needed extra school support.

These children are now aged 15, 11, 10 and 5 and an Adoption Order was made in the NSW Supreme Court in October 2019.

Barnardos' open adoption work with children under 5

Key issues

The following case example of N (aged three year old) demonstrates how Barnardos' goal-oriented and streamlined case work processes achieved adoption orders in 18 months.

Child Protection History

N was assumed into the care of the Minister by Department of Communities and Justice (“DCJ”), following her birth due to concerns held in relation to the birth mother’s drug and alcohol use and unaddressed mental health issues such as anxiety. On 6 June 2017, N was discharged from hospital and placed into the care of a Barnardos Temporary Foster Care (TFC) carer where N remained until being placed with the proposed adoptive parents on 12 December 2018. N has two older half maternal siblings who did not reside in the care of the birth mother. No birth father was confirmed for N, despite attempts made by Barnardos to engage with the putative birth father put forward by the birth mother.

Between June 2017 and April 2018, the DCJ Care Plan outlined the birth mother commenced addressing concerns held by DCJ as she wished to have N restored to her care. The birth mother attended regular appointments with an outpatient alcohol and drug service for approximately 6 months but was reluctant to enter an inpatient rehabilitation program. The birth mother complied with urinalysis for a total of 12 weeks. The birth mother remained drug free for a period of six months and a plan of restoration progressed. N spent time in the birth mother’s home, and this graduated to being unsupervised. In April 2018, the birth mother was reported by Barnardos playgroup staff to present as drug affected. She later admitted to Barnardos TFC and DCJ workers she had relapsed. Attempts were made by DCJ and Barnardos TFC for the birth mother to enter a rehabilitation facility, but she refused to agree to this plan.

On 18 June 2018, the Children’s Court made a Final Order allocating Parental Responsibility to the Minister until N attained the age of 18 years. In July 2018, the birth mother elected to enter Odyssey House drug rehabilitation facility with a view of completing 12 months of an inpatient program. The birth mother engaged in this service until 7 February 2019 when she left voluntarily.

Matching Process

N was referred to the Barnardos adoption program on 30 April 2018 and was formally matched on 27 November 2018 with her proposed adoptive parents. N was matched with the proposed adoptive parents due to their commitment to a child, they held a child focused attitude and openness to birth family. The proposed adoptive parents were made aware that the birth mother was completing rehabilitation with the intention of seeking restoration of N once she had completed the program. A nine-day transition period commenced on 3 December 2018 with N entering the care of the proposed adoptive parents on 12 December 2018.

Adoption Process

On 14 October 2019, a report was presented at the Barnardos internal Adoption Approval Panel, to seek approval to commence adoption proceedings. On 9 December 2019, Barnardos CEO, Deirdre Cheers gave her approval for adoption proceedings to commence.

The proposed adoptive parents placed pictures of N’s birth family on the fridge and displayed pictures in her bedroom. Everyday conversations occurred about N’s birth family where possible. The proposed adoptive parents demonstrated a high level of communicative openness and displayed genuine and respectful gestures such as photographs, updates, and ensuring family visits were as positive as possible for N. The proposed adoptive parents engaged with the birth mother’s wishes such as N participating in a local circus group.

Between December 2018 and September 2019, the birth mother advised she disagreed with N's proposed plan of adoption as she wished to lodge a Section 90 application to have N restored to her care. In October 2019, the birth mother expressed she felt N was happy and felt she had not made sufficient changes to have N return to her care and did not wish to contest N's proposed plan of adoption.

N's matter was allocated to Barnardos legal team on 9 March 2020. On 26 March 2020, the birth mother signed the maternal Adoption Plan. N's Adoption Application was filed at the Supreme Court on 24 April 2020 and on 22 May 2020, submissions and the Affidavit of Service were filed. An Adoption Order was made for N on 11 June 2020.

Appendix B – Supporting data

Each year Barnardos commissions actuarial analysis of the data from our Temporary Family Care (TFC – children on Interim Court Orders, before NSW Children’s Court) and our Barnardos’ Open Adoptions Program. Some of this data is shared below, providing analytical support to the body of this report.

Chart A1 shows the trend in duration to restoration from our TFC program for all exit types. Since commencement of the PSP restoration time has increased from an average of under 10 months to almost 12 months for non-Aboriginal children, and from 7 months to 14 months for Aboriginal children.

Chart A1: Duration in TFC of those children exiting each Financial Year

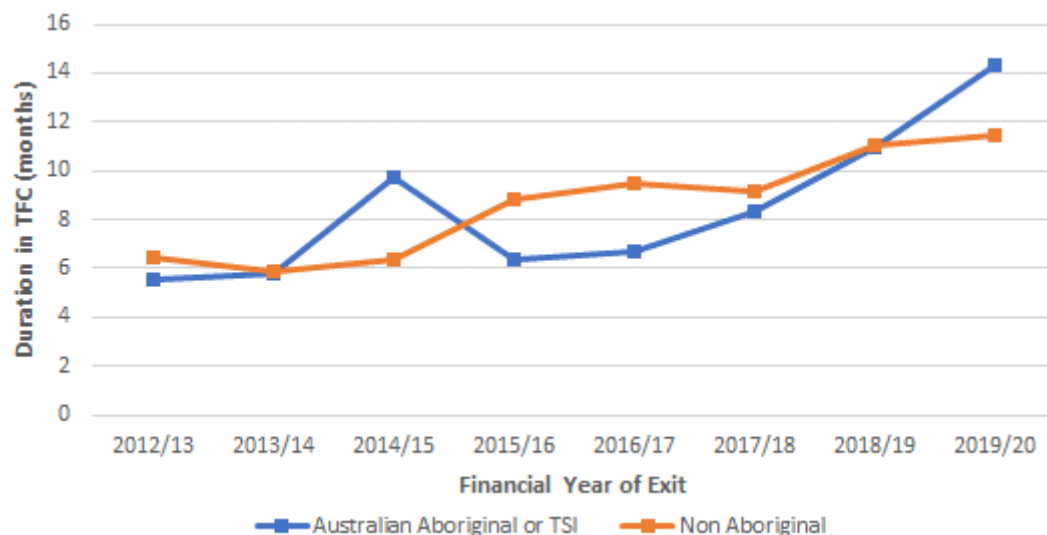
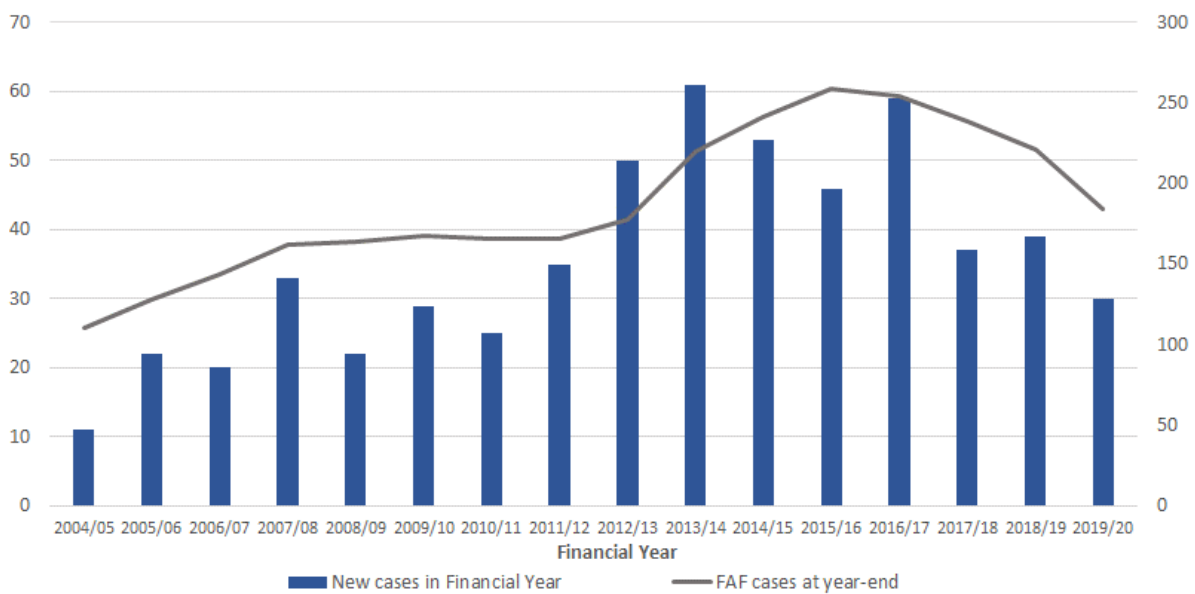


Chart A2 shows that the number of children entering the Barnardos' Open Adoptions Program¹⁴ has approximately halved in the last 3 years. Overall program numbers are falling rapidly due to the continued success of Barnardos in achieving adoptions which are a form of exit from OOHC as well as due to the significant decline in the number of entrants since 2017 (commencement of the PSP).

Chart A2: Barnardos' Open Adoptions Program entries and numbers by Financial Year



¹⁴ Find a Family (FAF – children on finalised Orders for long term care) programs

For children and young people entering Barnardos' Open Adoptions Program aged under 5 years old since 2012, the proportion exiting due to adoption is extremely high – trending to 80% (or higher) for most intake years as shown in Chart A4.

Chart A3: Likelihood of adoption by Financial Year of Entry

