
*Submission to the House of
Representatives Standing
Committee on Social Policy and
Legal Affairs Inquiry into Local
Adoption*

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INTO LOCAL ADOPTION***

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Introduction

I thank the Committee for the invitation to make a submission to this important inquiry “into a nationally consistent framework for local adoption in Australia, with a view to providing stability and permanency of care for children in out-of-home care, with local adoption as a viable option.”

As part of my role as a researcher at The Centre for Independent Studies, I have undertaken extensive research into Australia’s child protection systems. Beginning in 2008, I published a series of research reports examining the problems in child protection systems, spanning the spectrum of statutory, early intervention/family support, and out-of-home care services.

This work culminated in the publication of my book, *The Madness of Australian Child Protection: Why Adoption Will Rescue Australia’s Underclass Children*, in November 2015.

The findings and recommendations of my research were favourably cited by the South Australian Coroner, Mr Mark Johns, in the [*Inquest into the Death of Chloe Lee Valentine*](#). My research has also influenced the child protection and adoption reform agenda of the NSW government, and the ‘permanency planning’ reforms legislated in Victoria in 2015.

Given the major problems with the current structure and operation of child protection systems (which are virtually identical in all jurisdictions), promoting the greater use of ‘open adoption’ would be in the best interests of increasing numbers of vulnerable children,¹ and give more children safe and permanent homes for life.

The evidence supporting the view that the greater use of adoption is in children’s best interests is overwhelming, and supported by the well-documented failures of current child protection policies and practices to properly protect the safety and wellbeing of the many children whom ‘the system’ is failing.

Since 2000, the number of maltreated children who live in government-supported ‘out-of-home’ care (OOHC) in Australia has grown by 155% to more than 46,000 children in 2015–16. Yet in 2015–16, just 70 children were adopted from care nationally (67 in NSW alone, and just 3 in total outside of NSW in the other seven states and territories) despite more than 31,000 children (two-thirds of the total OOHC population) having been in care continuously for more than two years.

¹ ‘Open’ adoption refers to the standard contemporary practice whereby adopted children’s origins are acknowledged, connections with birth parents and extended family are maintained, and links with culture and identity are developed as part of the duty of adoptive parents to act in children’s best interests. The practice of adoption has evolved to reflect the harm done by past practices in early eras when adoptions were ‘closed’: original birth records were sealed, and adopted children were treated as blank slates and as if they had no previous heritage or identity. Children therefore had no contact with their birth parents and extended families, and no knowledge of their background and culture. The result was that some adopted children experienced confusion, loss, and isolation later in life due to psychological impacts of separation from their birth family.

My research has dealt at length with the systemic causes of the unsustainable trajectory — and escalating size, cost and complexity — of out-of-home care systems in all jurisdictions. Greater awareness of the negative and often life-long impact on child welfare of the increasing numbers of children suffering ‘churn’ and ‘drift’ in unstable long-term care without achieving permanency — the stable homes and families that all children need to thrive — is the major reason why policymakers face growing calls to increase the number of open adoptions from out of care; to give children with little prospect of ever going home safely permanent new homes and families for life.

I invite the Committee to consult the full range of evidence supporting the appropriate use of open adoption in my [book](#).

[Resetting the Pendulum: System-Wide Child Protection Reform in NSW](#)

This submission also draws on the findings and recommendations of my recent research report, *Resetting the Pendulum: Balanced, Effective, Accountable Child Protection Systems and Adoption Reform in Australia*, published in November 2017. This report examined the *Their Futures Matters* reforms currently being implemented in NSW — the sole jurisdiction in Australia to date that has committed to increasing the number of local adoptions from OOHC.

Some claim that local adoption is a simplistic and punitive ‘child stealing’ approach to child protection reform, which will see children rapidly and permanently removed without providing struggling parents with adequate early intervention and family support services to prevent child abuse and entries into care. These claims are debunked by the system-wide nature of the reforms in NSW, which are designed to strike an appropriate balance between pursuing family preservation and achieving permanency for children in out-of-home care.

The NSW reforms are specifically designed to ensure adoption is a viable pathway for children who cannot safely return home within a child-centred timeframe — *but only as a last resort, after all efforts have been made to assist parents and keep families together*.

Hence the NSW reforms feature three major elements:

1. The [Safe Homes for Life](#) reforms of 2014 introduced new permanency planning rules in NSW, which make it mandatory for a decision to be made about whether restoration to the parents is feasible within six months of entering care for children under two years of age and within 12 months of entering care for children aged two years and older. Once it is determined a child cannot safely go home, an application is to be made in the Supreme Court for an order to legally free them for open adoption by a new family.
2. Under the follow-up [Their Futures Matter](#) reforms announced in March 2017, the NSW government has also committed to ensuring by 2020 that all children in or at risk of entering care and their families receive coordinated packages of support services. Under the ‘Targeted Earlier Intervention Program’, the social service system across all government agencies and non-government providers will be redesigned in local districts to ensure tailored support services are available to meet the complex needs of vulnerable children and families to reduce entries to care.
3. The NSW government has also introduced the [‘Permanency Support Program’](#) to improve the accountability of OOHC services. From 1 October 2017, a new outcomes-based contract and funding system will incentivise the non-government providers that manage half of all out-of-home care placements in the state to find all children a permanent home within a two-year maximum deadline after entering care. The new OHHC system will also extend the reconfiguration of the social service system and development of new service models to

ensure OOHC services function in a child-and-family centred way, delivering targeted support services to help parents achieve change and keep their children permanently through successful restorations.

Contrary to some misleading commentary, the NSW reforms do not treat adoption as a ‘magic bullet’ panacea for the rising number of children entering and remaining in care in NSW. The reform agenda in NSW recognises that the entire system across the spectrum of services — and despite heavy investment by taxpayers — is not producing good outcomes when so many children are not being kept safely home, are not being reunited safely to their families, and are not achieving permanency despite spending long periods of time in care.

NSW has therefore embarked on a long-term plan to restructure the operation and improve the effectiveness and performance of the child protection system *across the full service spectrum*, with the aim of achieving permanency for more children. The goal of the reforms — and especially of the extensive early intervention and family support service system redesigns that the reforms entail — is to achieve permanency by:

- (a) Preventing maltreatment and keeping more children at home safely with their parents;
- (b) Restoring more children home safely from care by assisting families; and
- (c) Finding permanent homes via adoptions for children who are found to be unable return home and live safely within a two-year permanency deadline.

As the *Resetting the Pendulum* report notes:

Rather than continue spending heavily on “crisis-orientated” OOHC services, *Their Futures Matters* aims to ‘frontload’ child protection expenditure by investing in effective, evidence-based services to prevent child abuse and keep families together. This is consistent with the major recommendations of virtually all of the at least 39 inquiries, reviews and royal commissions into child protection in Australia in the past decade alone, which have repeatedly called for child protection services to be re-orientated around early intervention and family support.

Nevertheless, the two-year maximum permanency timeline may seem harsh and unwarranted. However, it is justified by the need to prevent the harm done by instability and lack of permanency in care, and ensure children who can’t go home safely find a stable home and new family for life. Enforcement of strict permanency deadlines is essential because some families with the most serious and entrenched problems will not be able to change in a timely fashion, and adoption is needed to prevent drift in unstable, long-term care.

In these circumstances — and only in these circumstances — will adoptions occur in NSW: not as the fast resort, but as the last resort to achieve permanency, after the best efforts to assist families have failed. The NSW reforms therefore represent an appropriate and measured resetting of the pendulum to better balance the principles of family preservation and permanency, and ensure the child protection system is held accountable and operates in the best interests of children’s long-term welfare.

I invite the Committee to consult the [full report](#).

National Child Protection Accountability Framework

The remainder of this submission addresses the inquiry’s specific terms of reference, regarding a nationally consistent framework for local adoption in Australia, with specific reference to:

1. stability and permanency for children in out-of-home care with local adoption as a viable option; and
2. appropriate guiding principles for a national framework or code for local adoptions within Australia

The NSW model should be emulated by policymakers in all states and territories as it is an implementable blueprint for genuine and overdue systemic change that will make child protection systems more effective and accountable nation-wide. To advance this desirable objective, the federal government should be encouraged by the Committee to explore all available avenues to influence state and territory policy making in this direction.

The role of the federal government is constitutionally limited by lack of direct authority over child protection services that are a state and territory responsibility. Nevertheless, a national framework that embodied the key guiding principles of the ground-breaking reforms under way in NSW would allow the federal government to exert significant national political leadership in this crucial policy area; and would potentially create a mechanism to hold the states and territories accountable for improving outcomes for vulnerable children and families throughout the nation.

National leadership could be exerted, and greater accountability demanded, by reshaping how the copious child protection data generated by all states and territories systems is presented and made publicly available at the national level. Publication of key, *meaningful* performance and *effectiveness* measures — such as, for example, re-notifications, restorations and restoration breakdowns/re-entries into care, and placement moves and length of stay in care — should be linked to the key goals, priorities, and outcomes of a new **NATIONAL CHILD PROTECTION ACCOUNTABILITY FRAMEWORK**, which should directly reflect the key elements of the NSW reforms.

The new national framework proposed in this submission would have four sections covering the following subjects:

- **KEY GOALS**
- **KEY EFFECTIVENESS INDICATORS**
- **KEY REFORM PRIORITIES**
- **KEY PERFORMANCE OUTCOMES**

KEY GOALS

The national framework proposed here is designed to underline that the problems in the child protection system — as has been recognised in NSW — are a function of defects and deficits *across the entire system*. The aim should be to emphasise that restructuring child protection systems across the full spectrum of services is essential — as opposed to implementing a one ‘point’ solution (such as more early intervention or more adoptions) in isolation.

The focus on generating system-wide change should be reinforced by clearly articulating that the three **KEY GOALS** of the national framework- **PREVENTION, RESTORATION, AND PERMANENCY** — span the full spectrum of services. It follows that these goals should be directly aligned with the indicators, priorities and outcomes included in national framework outlined here.

KEY EFFECTIVENESS INDICATORS

The Australian Institute of Health and Welfare and the Productivity Commission already publish substantial volumes of child protection statistics and analysis in their respective annual *Child Protection Australia* and *Report on Government Services* reports. Either of these organisation could

be tasked with the developing a simpler and more meaningful data ‘dashboard’ consisting of **KEY EFFECTIVENESS INDICATORS** (including the kind of data and measures noted above). The key effectiveness data dashboard would form the cornerstone of the national framework, given that it would be directly aligned with framework’s goals, priorities, and outcomes.

KEY REFORM PRIORITIES

Importantly, the proposed national framework would be specifically designed to bring greater clarity to national debate about child protection policy. The aim would be to thereby create a national accountability mechanism capable of exerting greater influence over state and territory government policymaking by encouraging the implementation of the kind of evidence-based, evaluated, targeted, and outcomes-focused policies developed in NSW.

Hence, the explicit purpose of national reporting of key effectiveness indicators — which would show if state and territories are (or are not) achieving the key goals of prevention, restoration and permanency — should be to encourage other states and territories to adopt and apply the three ‘guiding principles’ (which would be better termed **KEY REFORM PRIORITIES**) behind the NSW model.

The three key reform priorities — based on the structural reforms in NSW, and aligned with the three key goals— that should be included at the heart of the national framework are:

1. Invest in evidence-based, evaluated, coordinated, and targeted early-intervention and family services to help more children stay safely at home.
2. Develop evidence-based and outcomes-focused out-of-home care services that are accountable for assisting parents and children to achieve family reunifications from care within a designated 2-year maximum time limit.
3. Ensure children do not ‘drift’ (and are not repeatedly ‘churned’) in unstable OOHC by ensuring children who cannot safely go home within two years can achieve permanency through open adoption.

KEY PERFORMANCE OUTCOMES

A national framework outlining key reform priorities, allied with a meaningful data ‘dashboard’, would help guide and spur state and territory policy-making, especially by enabling comparisons to be made between better performing and poorer performing jurisdictions. A more transparent and meaningful set of key effectiveness indicators would also increase state and territory government accountability for the effectiveness of services and the outcomes achieved for children and families.

The proposed national framework would hereby permit regular evaluation of the overall performance of child protection systems — by parliamentarians, media and other stakeholders — against clearly defined goals, indicators, and priorities. To further encourage scrutiny, debate, discussion, and policy reformulation, the national framework should also include three plain-language key questions, in the form of the following three **KEY PERFORMANCE OUTCOMES**:

1. How well, or not, is the system functioning to keep children safe and at home after a notification is received?
2. How well, or not, is the system functioning to assist parents and return children home — and have them stay home — safely after a child has been removed into care?
3. How well, or not, is the system functioning to ensure children achieve permanency when they are unable to safely return home?

Conclusion

The table below summaries the information contained in submission and sketches the rudimentary element of the proposed National Child Protection Accountability Framework.²

NATIONAL CHILD PROTECTION ACCOUNTABILITY FRAMEWORK			
KEY GOALS	KEY EFFECTIVENESS INDICATORS	KEY REFORM PRIORITIES	KEY PERFORMANCE OUTCOMES
PREVENTION	<ul style="list-style-type: none"> • Re-notifications rates • Subsequent decision to remove rates 	<ul style="list-style-type: none"> • Invest in evidence-based, evaluated, coordinated, and targeted early-intervention and family services to help more children stay safely at home. 	<ul style="list-style-type: none"> • How well, or not, is the system functioning to keep children safe and at home after a notification is received?
RESTORATION	<ul style="list-style-type: none"> • Restorations rates • Restoration breakdown rates • Re-entries into care rates 	<ul style="list-style-type: none"> • Develop evidence-based and outcomes-focused out-of-home care services that are accountable for assisting parents and children to achieve family reunifications from care within a designated two-year maximum time limit. 	<ul style="list-style-type: none"> • How well, or not, is the system functioning to assist parents and return children home — and have them stay home — safely after a child has been removed into care?
PERMANENCY	<ul style="list-style-type: none"> • Placement moves • Length of stay 	<ul style="list-style-type: none"> • Ensure children do not ‘drift’ (and are not repeatedly ‘churned’) in unstable OOHC by ensuring children who cannot safely go home within two years can achieve permanency through open adoption. 	<ul style="list-style-type: none"> • How well, or not, is the system functioning to ensure children achieve permanency when they are unable to safely return home?

² The proposed genuinely system-wide approach adopted in the proposed framework would correct the bias towards ‘early intervention and prevention’ — in isolation from other important policies and outcomes, especially as permanency — evident in the existing National Framework: Council of Australian Governments (COAG). *Protecting Children is Everyone’s Business: National Framework for Protecting Australia’s Children, 2009–2020*. Canberra: Commonwealth of Australia, 2009.

The Centre for Independent Studies (CIS)

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