

**Submission to the Inquiry into the Implementation of the
Recommendations of the Forgotten Australians Report**

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1. About The Benevolent Society

The Benevolent Society is Australia's first charity. Since 1813, we have identified major social challenges and worked to meet them head on. We aim to tackle social inequality by building caring and inclusive communities. We deliver leading edge programs and services, find innovative solutions to complex social challenges and call for a more just society. Our strength lies in our expertise across the lifespan, delivering services for children and families, older people and in women's health, community based and respite care, community development and social leadership programs.

The Benevolent Society currently operates child and family services throughout greater Sydney, the Central Coast, Central West, New England and Hunter areas in NSW. We have also expanded into South East Queensland where we are setting up an Early Years Centre, funded by the Queensland Government. The focus of all our services is on working with communities to build resilience and address disadvantage.

We have considerable experience in child protection, providing a range of long-term, intensive interventions to DoCS-referred high risk families in Central, Eastern and South West Sydney.

Since 1991 we have operated the Post Adoption Resource Centre which provides information, counselling and a range of other services to anyone affected by adoption.

The Benevolent Society is currently developing an innovative out-of-home care (OOHC) program to provide general foster care, relative/kinship care, wraparound support and family preservation services across NSW.

Our approach to providing child and family services is strongly shaped by both current research and thinking in this area and our own experience initiating and implementing integrated child, family and community initiatives in high need communities.

Our work with children, families and communities is underpinned by a philosophical approach that:

- Has a strengths or assets approach to individuals, families and communities
- Strengthens relationships between individuals, families and communities
- Focuses on the systemic issues, as well as the interpersonal ones
- Is holistic, comprehensive and long-term
- Supports long-term intervention to prevent abuse and neglect of children
- Is committed to nurturing children and families.

2. Implementation of Forgotten Australians Recommendations:

A report on Australians who experienced institutional or out-of-home care as children, 2004

The Benevolent Society welcomes this opportunity to contribute to the assessment of the progress of the implementation of the recommendations from Forgotten Australians.

Some recommendations from Forgotten Australians were targeted at agencies like The Benevolent Society, which operated an institution for children called Scarba Home from 1917 to 1986. We are pleased to report on our progress in implementing these recommendations below.

Other recommendations addressed action which could be taken by federal, state and territory governments. Where these recommendations have relevance to the work and expertise of The Benevolent Society, we have also given our assessment of the progress made by governments in implementing these recommendations.

Recommendation 2: Apology

In response to the Forgotten Australians report, The Benevolent Society issued a letter of apology on 15th October 2004. That letter can be found on pg 45 as Appendix 1 of *Living at Scarba Home for Children: A history of the Scarba Welfare Home for Children (1917- 1986) in the context of child welfare practice in New South Wales* which is attached to this submission. *Living at Scarba Home for Children* is available on our website and also in hard copy for any interested members of the public. <http://www.bensoc.org.au/uploads/documents/living-at-scarba-may2006.pdf>

Recommendation 5: Whistleblower legislation

The Benevolent Society would support the Australian Government introducing whistleblower legislation for the not-for-profit, religious and charitable sectors.

The Benevolent Society's own *Policy and process for responding to allegations of abuse* (attached to this submission) explicitly addresses the need to safeguard the confidentiality of any complainants, within or external to The Benevolent Society, with an emphasis on preventing any retribution against them for bringing the complaint.

Recommendation 6: National reparations fund

The Benevolent Society supports the establishment of a national reparations fund.

While it is difficult to put a dollar amount on a person's past suffering, monetary compensation can make a significant material difference in the present lives of care leavers who are traumatised as a result of their time in care.

A reparations fund is necessary because state Statutes of Limitations prevent care leavers bringing actions for damages to court until many years after the abuse itself occurred, and applications for extensions of time are difficult and costly to obtain.

The Benevolent Society's own policy on reparations permits an offer of contribution or settlement to assist a complainant in their current circumstances, but does not offer a financial settlement as compensation for past wrongs.

Recommendation 7: Processes for handling abuse allegations

In response to *Forgotten Australians*, The Benevolent Society developed policy and processes for handling abuse allegations. These are attached as an appendix to this submission. Our policy includes provisions stipulating that:

- complainants will be offered the opportunity to meet with a designated staff member, CEO or Board Member; and nominate or be provided with a support person who can be present at all formal and informal meetings if so desired by the complainant;
- if the initial complaint progresses to an official complaint, an independent investigator will be appointed;
- complainants will be offered counselling at The Benevolent Society's Post Adoption Resource Centre or The Benevolent Society will contribute to the cost of external counselling;
- no complainant will be required to give an undertaking which imposes upon them an obligation of silence;
- The Benevolent Society will consider how the investigation and determination could inform current practice and inform the CEO accordingly;

This policy is not currently available on our website, however the *Living at Scarba Home for Children* report and relevant contact details are available.

Recommendation 8: National Commissioner for children and young people

The Benevolent Society supports the establishment of a national body which would drive a national reform agenda for child protection. If such a body were to act as a complaints processing mechanism, it is likely that any mandate for systemic, positive reform would be subsumed. Please see our response to *Protecting Vulnerable Children*, Recommendation 17 for further comments.

Recommendation 9: Publish data on abuse complaints

The Benevolent Society does not currently publish this information. We will look into the appropriateness of publishing these details.

Recommendation 10: Annual national report by commissioner

The Benevolent Society supports a national approach to monitoring and reporting on data gathered about care leavers.

Recommendation 12: Finding and preserving records

Through The Benevolent Society's practice experience, especially through the Post Adoption Resource Centre, we genuinely appreciate the great significance and importance that locating records can hold for people who have been in care.

In response to *Forgotten Australians*, The Benevolent Society published a history, *Living at Scarba Home for Children*, in an attempt to make public an accurate account of historical care practices at Scarba Home in the context of institutional care in the 20th century.

The research focus was to find out as much as possible about the experiences of children who spent time at Scarba, the care practices at the Home and the way the Home fitted into the broader child welfare system, particularly in NSW.

Organisational knowledge held that there were no client records for children in care at Scarba prior to the late 1960s. This was confirmed during the research process, as far as was possible to do so. Additionally, there was some question about whether files may have been destroyed in the late 1960s, deliberately or otherwise. No evidence was found to support a comprehensive destruction of records, however the possibility cannot be ruled out.

Those records which do exist are being carefully stored and are accessible to care leavers.

Recommendation 13: Cease destroying records

The Benevolent Society recognises the great significance that records hold for people who have been in care and has retained all records relating to Scarba Home which have been located. The Benevolent Society keeps all records in accordance with privacy legislation.

Recommendation 14: Services and directories to access records

The Benevolent Society has entered existing client records into a database so that we can easily access client files and records when approached by former residents. We have also published a brochure for former residents and their families outlining how they can access the history of Scarba House, client records and how they can make a complaint about past care practices.

The locations of surviving records are documented in Appendix 4 of *Living at Scarba Home for Children*. The Benevolent Society's Post Adoption Resource Centre is

able to pass on existing records to those who were in the care of The Benevolent Society at Scarba Home. The Benevolent Society employs an archivist whose contact details are available on our website, as are comprehensive instructions regarding accessing records in Mitchell Library.

Recommendation 15: State and territory records services

The Benevolent Society supports the establishment of such a service.

Recommendation 16: Records access guidelines

The Benevolent Society supports the development and implementation of access guidelines.

Recommendation 17: Support and counselling upon viewing records

The Benevolent Society's Post Adoption Resource Centre (PARC) is able to pass on existing records to those who were in the care of The Benevolent Society at Scarba Home, and our staff have been trained to sensitively assist former residents who wish to make inquiries about their time at Scarba Home.

PARC has also been extended to provide counselling and support for former residents and we can also refer people on to external counselling services if they prefer independent support.

Recommendation 20: Funding for CLAN

The Benevolent Society is a supporter of the work done by CLAN. After the release of Forgotten Australians, we worked closely with CLAN, seeking advice on how best to reach out to and support former residents of Scarba Home.

The Benevolent Society continues to support CLAN with a small annual monetary contribution. The Benevolent Society believes this invaluable organisation should be awarded recurrent annual funding by the Australian Government to support their important work.

Recommendation 21: Provision of support services

See responses to recommendations 7, 12, 14 and 17.

Recommendation 23: Counselling services

The Benevolent Society's Post Adoption Resource Centre has been extended to provide counselling and support for former residents of Scarba Home and we can

also refer people on to external counselling services if they prefer independent support.

PARC provides phone counselling and has a regular presence in regional and rural areas.

Recommendation 39: Tertiary education on child protection issues

The Benevolent Society delivers services to people across the lifespan and recognises the importance of all those working human services understanding the impact that time in care can have. Sensitivity of workers to issues common to care leavers would improve the effectiveness of services, so tertiary education on these issues would be beneficial.

3. Implementation of Protecting Vulnerable Children Report Recommendations: Second report on the inquiry into children in institutional or out-of-home care, 2005

This Inquiry is a valuable opportunity to address the key issues which impact on the wellbeing of children and young people in out-of-home care. While primary responsibility for children and young people's health and welfare rests with state and territory governments, the national government plays a significant role in leading consistent best practice across the country.

Children and young people in out-of-home care are a highly vulnerable group. The abuse and neglect which has preceded their removal from their families frequently impacts on their developmental outcomes, reflected in ongoing social and emotional difficulties, developmental delay, and significant behavioural difficulties compared to children and young people from a supportive family background.

Given this background, children in out-of-home care need the best quality care and support at home, at school and in the support services which they receive in order to have a chance at fulfilling their potential. Governments, having taken the serious step of removing children from their parents, must then make an equally serious commitment to providing those in their care with everything they need to be happy and productive in the present and as future adults.

This requires service integration and government policy recognising that child protection is about more than responding to child abuse. Government departments such as health and education must work with child protection agencies to ensure the wellbeing of all children, especially children in out-of-home care. Governments also need to recognise the need for long-term planning and funding for out-of-home care, through implementing long term planning and funding cycles. The wellbeing of children and young people in care is too important to be a partisan issue.

The genuine participation of children and young people in decision making processes about their out-of-home care is paramount. International and state legislation requires that they be included when decisions are made which impact on their welfare. This process helps to ensure that the support provided meets children and young people's needs and respects their rights, thereby supporting their wellbeing in the present and improving their future prospects. The process of participation itself also promotes positive outcomes, increasing children and young people's confidence and self-esteem and equipping them with knowledge about their rights and the services available to them.

Recommendation 2: Mandatory reporting review

The Benevolent Society welcomed the opportunity to provide a submission to the recent Wood Inquiry into child protection in NSW.

We believe it is important to maintain mandatory reporting as it plays a role in increasing community awareness of child abuse and neglect. To maintain this awareness and avoid confusion we recommend maintaining the current mandated

reporters while raising the existing reporting threshold. We call for the introduction of a community-based intake and referral service.

Similarly, while domestic violence is an issue that substantially contributes to the overall number of reports, we feel that NSW must continue to recognise the impact that domestic violence has on children's safety and wellbeing. As previously stated in section two, domestic violence and its impact on women and children needs to be addressed through an integrated policy and service framework.

We believe that the existing reporting threshold of concerns that a child aged under 16 is at risk of harm is too low and recommend that the threshold be raised. If this is done, however, it is critical that systems be put in place to ensure that families who do not meet the threshold for statutory intervention receive the support that they need.

The Benevolent Society believes that the best way to serve the children and families of New South Wales is to develop a system that broadens the responsibility for child protection beyond the statutory child welfare agency, DoCS.

One example that we recommend be explored is the Child FIRST (Child and Family Information Referral and Support Teams) system in Victoria. A community-based intake and referral service, Child FIRST links vulnerable families to services without directing them through the child protection service. Regional Child FIRST teams receive reports of concern for a child's wellbeing, as well as providing information and advice.

Many NGOs would welcome undertaking this role. During the design and development stage of Brighter Futures, The Benevolent Society suggested this model to DoCS.

Recommendation 5: TILA review

The Benevolent Society supports a review of the Transition to Independent Living Allowance. TILA was designed to be provided in conjunction with other support services to help young people leaving out-of-home care to develop resilience and build their capacity to overcome difficult situations faced in their transition to independent living.

However, the outcomes for care leavers who transition to independent living are consistently unsatisfactory. Studies in Australia, the United States, United Kingdom and Canada clearly demonstrate how poorly equipped young people leaving care are in their ability to cope with the transitions they have to make in a short period of time. The studies show that the lives of most care leavers are characterised by mobility, poor quality accommodation, unemployment, early parenting, difficulties in 'making ends meet' and establishing and maintaining relationships, limited support and family contact, loneliness and mental health problems (*Young People Leaving Out-of-Home Care*, DoCS September 2007).

Unlike most young people, care leavers rarely have a support network they can draw on after leaving home. Young people in care are also forced to leave home long before most young people do and are confronted with high rental and general living costs.

As transitioning to independence is a long term process The Benevolent Society supports the Create Foundation's recommendations of extending out-of-home care support for young people until they are 25 years of age. Other best practice principles which support young people's transition out of care include delaying transition until the young person has finished school, supporting planning and preparation, continuing contact and support by the foster parent beyond the move out of home, offering mentoring and listening to young people and what they say about their needs.

Recommendation 6: New models of schooling for children in out-of-home care

Every child or young person in out-of-home care should automatically qualify for extra school assistance and resources. These children and young people should receive priority support, not be put on long waiting-lists.

Funding models need to be flexible enough to meet needs when they come up and respond to changes in children's and young people's circumstances. Those in care can tend to be moved from school to school frequently, and there is an unfortunate pattern where delays mean that the funding to support a child or young person may arrive after the child has already left the school. This can be resolved by allocating resources to the child, rather than to the school.

Recommendation 7: Strengthening of case management

Turnover of caseworkers can be reduced by ensuring that caseload numbers are not unmanageable. It is widely acknowledged that it is very difficult to nominate a number of cases which is manageable, but evidence of best practice shows that no more than 12 children and young people should be allocated to each caseworker. Caseload allocations need to be flexible and respond to the varying needs of each child or young person in care. To have as much continuity of care as possible caseworkers should be allocated to the child rather than having a new caseworker if they move.

Recommendation 9: Inclusion in National Plan for Foster Care

The Benevolent Society supports the recommendation that training, support and data collection address the needs of carers. Given the decrease in foster carers and the increasing rate of relative and kinship care, it is essential that these carers be resourced and supported in a manner commensurate with other foster carers.

Annual report cards on the state of children and young people in out-of-home care and their carers would be highly beneficial. An option could be exploring if this could be included in the Australian Research Alliance for Child and Young People Annual Report Card. This has wide spread distribution and would increase public awareness

and accountability regarding the situation of children and young people in care.

Recommendation 10: Flexibility in caring for children with disabilities

The Benevolent Society supports flexibility and responsiveness in services for all children. The United Nations Convention on the Rights of Child requires that children's best interests are considered and that their voices be heard when decisions are made which impact on their lives. Another important point of reference is the recently ratified United Nations Convention on the Rights of People with Disabilities which states that in all actions concerning children with disabilities, the best interests of the child shall be a primary consideration. Children with special needs require responsive and flexible services rather than a one-size-fits all approach.

Recommendation 17: National Commissioner for children and young people

The Benevolent Society supports the creation of a position that is a strong advocate for children and young people's participation ensuring that those who are affected by decisions are central to the decision-making process. This position would drive the development and implementation of common frameworks and best practice models for child protection in Australia. This could be in the form of an independent Commissioner for Children, alternatively there could be an Office for Children located in Prime Minister and Cabinet. To be effective both positions would need to have status within the executive and administrative arms of government.

Child centred policy and practice requires that children's interests be paramount and not be cast aside in conflicts between federal and state governments. The pre-eminent Canadian child and family expert Cindy Blackstock illustrates this situation with "Jordan's Principle". "Jordan's Principle is an excellent example of reconciliation in action. Jordan River Anderson was a First Nations boy who spent over two years unnecessarily in a hospital while provincial and federal governments argued over who should pay for his at-home care. The costs for Jordan's at-home care would have been paid by the province without question if Jordan was non-Aboriginal. Sadly, Jordan passed away at the age of 5 years never having spent a day in a family home." A national commissioner would play an important role in ensuring that all children and young people, no matter where they live, receive the care and support they need.

Recommendation 18: Productivity Commission to determine real costs of out-of-home care

The Benevolent Society supports an evaluation of the out-of-home care model. With increasing numbers of children and young people in out-of-home care and decreasing numbers of foster carers, there is a pressing need to assess and review the current system and make improvements which will support children and young people into the future.