

Explaining the changes to NSW Child Protection Legislation



Key issues:

- In Australia today there are 130 substantiated cases of abuse or neglect a day (AIHW Child Protection 2011/12). At Barnardos we believe this is unacceptable.
- Barnardos is committed to the rights of children. In particular, the right to a safe and stable home.
- When it is unsafe for a child to remain at home, the child's future is determined in the Children's Court. They can be removed from their parents permanently when the abuse and neglect at home is severe.
- In January 2014 there were 18,707 children living in out of home care in NSW (FACs Dashboard).
- While the Barnardos rates are significantly different, the latest research shows the average number of placements for children in out of home care is six.
- Foster care systems have poor outcomes nationally and internationally. Children from foster care are over represented in prison. They are less likely to complete their education and more likely to be homeless, unemployed or have early pregnancy, than children in the general community.
- For babies and toddlers who will never return home, we believe open adoption rather than foster care until the age of 18 will make a significant difference to their long term welfare.
- For older children, we advocate for open adoption only when children cannot live safely in their own home, and when all other avenues to find them a safe home have failed and when adoption is something the child wants.
- We acknowledge open adoption is culturally inappropriate for Aboriginal children.
- Adoption is not suitable for every child, especially older children who do not want to be adopted. However, there are thousands of children for whom open adoption could offer a powerful process for change.
- We want children to have certainty – a family forever. Families are connected to you for life and provide life-long support. Currently the care system offers support for a child only until they are 18.
- It's critical that children know their history, ancestry and identity as these things lead to a sense of connection. Open adoption allows the adopted child to retain some contact with their birth family in order to understand their past.

Frequently Asked Questions:

Q: What do the changes to the NSW Child Protection Legislation involve?

A: The new legislation will:

- Ensure open adoption is available as an option for more non-Aboriginal children in the state who have already been permanently removed by the court due to abuse and neglect.
- Recognise the need to first consider whether a child can live with kin when their parents cannot care for them.
- Plan for the child's permanent care arrangements earlier and in a time relevant to the age of the child.
- Ensure all adoptions in NSW are open adoptions.
- Consider the needs of the child as important.

Q: What are the time limits for permanent care planning?

A: For a child under two years of age, plans for their permanent care arrangements will have to be made within six months. For children older than two, decisions will have to be made within a year.

Q: Why introduce a time limit on decision making?

A: A child's future needs to be decided in a child's timeframe. The legislation will reduce the length of time a child experiences the uncertainty of waiting in foster care with their future unknown. It is also worth remembering that much work will have already been done prior to the point that the time limit takes effect. Also, in the years until adoption is finalised, birth parents continue to have the right to regain their child.

Q: What is open adoption?

A: Open adoption means children still have contact with their birth parents, from letters to visits, as appropriate. Children need to know their identity and understand their past. Research and our own practice in open adoption have proven that this is best for the child in both the short and long term.

Q: Which children does this legislation refer to?

A: Children who have already been removed by the court because it is not safe for them to live at home due to abuse and neglect.

Q: How will this new legislation work?

A: The Children's Court will be required to consider open adoption as an option for children removed from their families because of abuse or neglect who have no kin to care for them and cannot be restored to their parents. Up until now, permanent foster care is seen as the only accepted solution.

Q: Why is open adoption preferable to permanent foster care?

A: Barnardos believe open adoption provides the only real security for a child. It gives a child a "forever family", not just care in childhood. Even after years of living with their family in permanent foster care, children tell of their huge relief when they finally "belong". In addition, when we look at services provided by the state and others, outcomes for children in the foster care system are woeful. Having left foster care, these young people are far more likely to become homeless, incarcerated or have children themselves at a very early age. We want these children to have the same opportunities in life as the rest of the community.

Q: What will the new legislation achieve?

A: These reforms will provide more children and young people in care with options for safe and stable homes, which will go on to improve their social, emotional, health and educational outcomes. These children, whose start in life was so difficult, will be able to break the cycle and become well adjusted, contributing members of the community.