

## Consultation Paper: Repositioning of the Out-of-Home Care System

### BACKGROUND

It is internationally recognised and accepted that achieving early permanent and stable care and legal arrangements for children in the child protection system, whether returning to their home or in out-of-home care, leads to better life outcomes for children (Fernandez & Maplestone, 2006). It is for this reason that full implementation of the permanency planning policy is a priority of the Department for Child Protection and Family Support (the Department).

Although the first permanency planning policy was released in 2009, full implementation has been slow. Notwithstanding the re-focus that has occurred this year, there is recent evidence from the relative carer project that some relative carers who would be willing to provide permanent legal care for the child/ren in their care, are still not aware of permanency planning. A myriad of external and internal factors are likely to have influenced this.

It is considered that the way the Department currently communicates the role of the out-of-home care system to the broader community, and more particularly to Aboriginal families and children, may also have impacted on the implementation of permanency planning. This is evident from feedback that the term 'permanency' and 'permanent out-of-home care' is often misunderstood in the Aboriginal community. As most children in out-of-home care are Aboriginal children, the language and positioning of the system needs to be clear for this community.

This report outlines a proposal to describe the out-of-home care system under two phases:

1. transitional care; and
2. home for life care.

It is important to note that this report is aligned and linked in the context of other reform changes, including over-representation of Aboriginal children in the out-of-home care system; realignment of district workforce; consistent carer assessment, training and approval; clarified policy on respite care; and realignment of Fostering and Adoptions Services.

For the purposes of this report, the term 'permanent care' refers to children on the following orders: Protection Order (until 18); Protection Order (Special Guardianship); and Carer Adoption. Further, this report refers only to primary carers, and therefore excludes a discussion on respite carers which will be presented later in the reform process.

This is a consultation paper that outlines and seeks feedback on forming policy thinking in out-of-home care reform. Feedback can be provided to [Oohcreform@cpfs.wa.gov.au](mailto:Oohcreform@cpfs.wa.gov.au) until 14 September 2015.

### DISCUSSION

#### Current positioning of the out-of-home care system

At its broadest, the out-of-home care system<sup>1</sup> links children who require safe, alternative care with people that are willing and able to provide this care. Whilst the reasons for children requiring out-of-home care, and the motivations of people willing to provide care may vary, at its most basic, connecting children with safe care arrangements remains a central purpose of the out-of-home care system. Western Australia uses the *Children and*

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<sup>1</sup> For the purposes of this report, 'out-of-home care system' refers to both the child protection system and adoption.

*Community Services Act 2004* and the *Adoption Act 1994* as the legislative framework to make these care arrangement connections.

However, shaped by historical and evolving societal views and government policies and legislation, a segmentation of types of out-of-home care (care-types) has occurred. Out-of-home care in Western Australia has increasingly become divided into ‘programs’ – each with their own purpose, history and reasons for evolution, definitions, processes and accountabilities.

As an example, the Department’s website currently outlines the following types of foster carers:

<b>Carer-type (CPFS and community services sector)</b>	<b>Description</b>
Respite	Respite Carers look after children for short periods of time to give their full time carers a break. They look after children in their own home for a few hours, a weekend or a few weeks.
Relative	Caring for the child of a relative.
General Foster Care – emergency	The Department and community services sector provides care for children from birth to 18 years, for emergency care*.
General Foster Care –short	The Department and community services sector provides care for children from birth to 18 years, for short-term care*.
General Foster Care –medium	The Department and community services sector provides care for children from birth to 18 years, for medium-term care*.
General Foster Care –long	The Department and community services sector provides care for children from birth to 18 years, for long-term care*.
Home for life	Home 4 Life is another way of describing ‘permanent foster caring’ - where a child is placed permanently with the same foster carer until the child turns 18.
Pre-adoptive Care	Mainly for newborn babies while the birth parents are considering long-term care options. The period of care ranges from a few days to several months.
Adoption	Adoption is a service that provides a family for a child who is unable, for a range of reasons, to live with their birth parents.
Inter-country adoption	Adopting a child from overseas.

Even further, within these broad care-types, there are numerous specialised programs providing foster care operated by the community services sector and the Department.

While it is acknowledged that there are some benefits to the segmentation of care-type (such as recruiting specifically for children with complex needs), it is argued that such a deep segmentation of care-types in this way results in the following:

- communicates a confused message about the role of out-of-home care;
- creates program inflexibility where it is difficult for carers to provide care outside of their ‘care type’;

\*Length of time unspecified

- creates a system that is focused on ‘what a prospective carer can provide’ rather than ‘what is required to meet the child’s needs’; and
- is a missed opportunity to align the entire out-of-home care system under the permanency planning policy.

Several examples include:

- Adoption – Currently 66 prospective adoptive parents (PAPs) are in the inter-country and local adoption pool. However in 2013/14 only 13 adoption orders (4 local, 9 inter-country) were granted. By definition of their approval, this group of PAPs are approved only to provide care for a very small cohort of children. It is very likely that, as a result of the limitations of the adoption program, the abilities and willingness of this group of prospective carers will never be utilised in any out-of-home care. Further, as supported by the greater legislative barriers to adopt Aboriginal children, this program is generally not appropriate for Aboriginal children.
- Home for life – The Home for life program began in 2011 as an attempt to link PAPs to children requiring permanent out-of-home care. However, its stand-alone nature, and inflexible program criteria, has made access to the program difficult for carers in practice. Consequently only seven care arrangements were initiated in the 2014 calendar year. Currently only three Protection Order (Special Guardianship) and two carer adoptions have been made. Further, anecdotally, there are foster carers in districts who are seeking permanent care of children who are not aware of the Home for life program.
- The pre-adoptive care program consists of 12 families that provide care for children relinquished for local adoption until they are placed with their adoptive family. The low volume of children that are relinquished has left carers of this program under-utilised. Recently this program has more readily begun to ‘share’ these carers with the districts. Given that most children that enter pre-adoptive care are not Aboriginal children, this program does not meet the needs of Aboriginal children.

## **Future System**

In recent years, Western Australia has undertaken a strong policy shift towards permanency planning. Implementation of this policy is viewed as the most effective way to achieve best outcomes for children that enter the out-of-home care system. It is envisaged that this direction will only strengthen with the prospect of future resource, policy and legislative reform. Given this, it is argued that perhaps more than ever, there is a need for clarity in the role of the Western Australian out-of-home care system and the trajectory of children that enter it.

Department policy, structure and community positioning of the out-of-home care system needs to mirror the intent of this policy.

It is notable that the Department’s last foster carer recruitment campaign was based on the slogan, “you won’t always see where they go, but you can help them get there.” This message undermines the permanency planning policy, by reinforcing that foster care is ‘non-permanent’.

### **Phases of Out-of-Home care: Transitional and Home for Life Care**

The Department’s permanency planning policy focuses the out-of-home care system on making permanent decisions for children as early as possible. The policy essentially segments the population of children in out-of-home care into two groups:

1. those where no permanent decision about their legal and care future has been made; and

2. those where a permanent decision has been made about their legal and care future (whether reunification or permanent out-of-home care).

The permanency planning policy lays the foundation for a position that any type of care other than when a permanent care arrangement is achieved is a transitional phase of care.

Therefore, in line with this policy, it is proposed that the Department repositions the whole of the out-of-home care system into two phases:

1. Transitional Care<sup>2</sup>: The phase of out-of-home care where no final court decision has been made for the long-term legal and care arrangements of a child.
2. Home for Life Care<sup>3</sup>: The phase of out-of-home care where a final court decision has been made for a child to remain in the long-term or permanent legal and physical care of people other than their biological parents. (It will be crucial that the name of this phase is appropriate for Aboriginal families).

## **TRANSITIONAL CARE**

When a child initially comes into out-of-home care, the Department is in a phase of permanency planning: including assessing and working towards reunification (primary permanency plan), while also developing an alternative for permanent out-of-home care (secondary permanency plan). During this phase, the child will be considered to be in *transitional care*.

With legislative change, there is an opportunity to rename Protection Order (Time-Limited) to Protection Order (Transition) or Transition Order to further reflect this policy.

## **HOME FOR LIFE CARE**

If reunification is assessed to not be in the child's best interests, a permanent out-of-home care and legal arrangement will be required. With future legislative reform, it is envisaged that an integrated suite of permanent legal options will be more readily available.

It is proposed that once a long-term or permanent court order is made, the child will be considered to be in *home for life care* (it is considered that a court order is the most appropriate decision-point for home for life care, as case planning decisions may not always be endorsed by a court, in which case the Department is required to continue to seek reunification). Annexure A describes this in more detail.

Given that the majority of children in out-of-home care are Aboriginal, it is crucial that the language of phases of care is meaningful, acceptable and understood by the Aboriginal community. The language proposed has been tested with the Department's Aboriginal Practice Leaders and feedback given is in Annexure B. Further 'community-testing' may be required.

Well communicated, these accepted umbrella terms would send a clear and cogent message that out-of-home care is 'a transitional system leading to long-term or permanent (stable and secure) care for children'.

There is some evidence from a similar reposition of the out-of-home care system in New Zealand that, when combined with policy and practice change, this approach would assist to hasten and embed internal (workforce; policy and practice development; resource application) and external (community understanding of the out-of-home care system) culture change.

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<sup>2</sup> Alternate name is 'transitional foster care'.

<sup>3</sup> Alternate names are 'forever family care'; 'family for life care'.

Evidenced and suggested benefits of this policy shift include:

- clear articulation the role, policies and processes of the out-of-home care system;
- a renewed focus on providing timely decisions for children;
- more rapid internal and external culture change whilst legislation change is considered;
- greater understanding in the Aboriginal community of the permanency planning focus;
- simplifying and streamlining a care-type program system; and
- aiding foster carer recruitment through simple and clear division of roles.

**Consultation point one:** The structure of *transitional* and *home for life* phases of care (or agreed alternative name) is embedded at a policy level. Further exploration of the names to be undertaken by the Aboriginal Engagement and Coordination Directorate to identify names that are meaningful and will be understood by the Aboriginal community.

**Consultation point two:** Home for life care to include children where one of the following orders has been made: Protection Order (until 18); Protection Order (Special Guardianship); and Carer Adoption.

**Consultation point three:** In the launch and implementation of the Out-of-Home Care Reform, this repositioning of the out-of-home care system is a central communication point.

### ***Transitional and Home for Life Carers***

#### **Non-relative carers**

As with the phases of out-of-home care, the permanency planning policy infers that there are two types of foster carers required in the Western Australian out-of-home care system:

1. A carer whose role it is to care for a child where no final decision has been made for their legal and care future (transitional care).
2. A carer whose role it is to care for a child when a decision has been made for them to live permanently out of their parent's care (home for life care).

Aligning with the phases of out-of-home care recommended above, it is proposed that the categories of *transitional carer* and *home for life carer*<sup>4</sup> are created. These categories would subsume all the other categories/programs of non-relative care (as outlined in table 1), leading to a simpler, clearer and more cogent communication of what type of care is required in the out-of-home care system. Along with the phases of out-of-home care, these two types

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<sup>4</sup> Or agreed alternative names.

of non-relative carers would form the foundation of the whole-of-sector's (Department and community services sector) community communication and inter-face.

At this stage, it is proposed that the competencies of transitional carer and home-for-life carer will be identical.

**Consultation point four** – In implementation of the Out-of-Home Care Reform, non-relative care-types are divided into transitional carers and home for life carers. These types of non-relative care-types will replace all other categories of carers.

### **Relative carers**

Given the different nature of relative care and their motivations to provide out-of-home care the term 'relative carer' will remain unchanged.

### **References**

Fernandez, E. & Maplestone, P. (2006). *Permanency Planning Literature Review: A review of the research evidence related to permanency planning in out-of-home care*. NSW: Centre for Parenting & Research, Department of Community Services.

## Annexure A – Phases of care

<b>Phase of care</b>	<b>Transitional care</b>	<b>Home for life care</b>
<b>Definition</b>	The phase of out-of-home where no final court decision has been made for the long-term legal and care arrangements of a child.	The phase of out-of-home care where a final court decision has been made for a child to remain in the long-term or permanent legal and physical care of people other than their biological parents.
<b>Time period</b>	No long-term or permanent order has been granted by the Children’s Court or Family Court.	A long-term or permanent order has been granted by the Children’s Court or Family Court.
<b>Categories of care subsumed</b>	<ul style="list-style-type: none"> <li>• emergency</li> <li>• short-term care</li> <li>• medium-term care</li> <li>• pre-adoptive care</li> </ul>	<ul style="list-style-type: none"> <li>• long-term care</li> <li>• home for life</li> <li>• adoption</li> </ul>
<b>Legal Order</b>	<ul style="list-style-type: none"> <li>• Provisional Protection and Care</li> <li>• Protection Order (Time-Limited)</li> </ul>	<ul style="list-style-type: none"> <li>• Protection Order (Special Guardianship)</li> <li>• Adoption Order</li> <li>• Protection Order (until 18)</li> </ul>
<b>Name of relative carer</b>	Relative carer providing transitional care	Relative carer providing home for life care
<b>Name of non-relative carer</b>	Transitional carer	Home for life carer

ANNEXURE B: Alternative names proposed by Aboriginal Practice Leaders (17/07/15)

<p>Transitional Care</p>	<ul style="list-style-type: none"> <li>• Transitional Foster Care</li> <li>• Short Term</li> <li>• Short Time</li> <li>• Short Time Home</li> <li>• Short Time Stay</li> <li>• Where I Go Next</li> <li>• Vision For Care</li> <li>• Path Home</li> <li>• My Journey So Far</li> <li>• Short Time Family</li> <li>• Here For Now</li> <li>• Care in Transition</li> </ul>
<p>Home For Life Care</p>	<ul style="list-style-type: none"> <li>• Family For Life</li> <li>• Long Term</li> <li>• Long Time</li> <li>• Long Time Home</li> <li>• Long Time Stay</li> <li>• Forever Found Home</li> <li>• Linked For Life</li> <li>• My Place Now and Forever</li> <li>• Long Time Family</li> <li>• Here To Stay</li> <li>• Safe Place For Keeps</li> <li>• A Completed Journey</li> </ul>