



Australian Government

**Australian Institute of
Health and Welfare**

Permanency planning in child protection

A review of current concepts and available data

2016

CHILD WELFARE SERIES NO. 64



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*Authoritative information and statistics
to promote better health and wellbeing*

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Contents

- Acknowledgments..... iv
- Abbreviations..... v
- Summary vi
- 1 Introduction1**
 - What is child protection?1
 - What are permanency planning and long-term care?1
 - Policy context2
 - Building an evidence base3
 - Potential data sources4
 - Structure of this report.....6
- 2 Challenges in collecting consistent permanency-related data.....7**
 - Permanency planning pathways7
 - Variations between jurisdictions8
 - Distinction between legal permanence and placement stability.....11
- 3 Permanency data from AIHW child protection and adoptions collections.....13**
 - Available data13
 - Child protection data13
 - Adoptions data.....18
- 4 Identified data gaps and improvements to reporting on long-term care.....20**
 - Data gaps20
 - Ongoing data development.....20
- Glossary.....23**
- References26**
- List of tables29**
- List of figures29**
- Related publications30**

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- Department of Family and Community Services, New South Wales
- Department of Health and Human Services, Victoria
- Department of Communities, Child Safety and Disability Services, Queensland
- Department for Child Protection and Family Support, Western Australia
- Department for Education and Child Development, South Australia
- Department of Health and Human Services, Tasmania
- Community Services Directorate, Australian Capital Territory
- Department of Children and Families, Northern Territory.

Abbreviations

| | |
|---------|--|
| ACT | Australian Capital Territory |
| AIHW | Australian Institute of Health and Welfare |
| CAFDaN | Children and Families Data Network |
| CP NMDS | Child Protection National Minimum Data Set |
| CPO | Care and Protection Orders file of the CP NMDS |
| LA | Living Arrangements file of the CP NMDS |
| NAPLAN | National Assessment Program: Literacy and Numeracy |
| NSW | New South Wales |
| NT | Northern Territory |
| OOHC | Out-of-home care |
| Qld | Queensland |
| SA | South Australia |
| Tas | Tasmania |
| Vic | Victoria |
| WA | Western Australia |

Summary

This report provides an overview of permanency planning and long-term care for children in out-of-home care, noting current concepts and describing available data and development work being undertaken to improve national reporting.

The importance of achieving permanency for children and young people in out-of-home care is widely recognised. However, standardised collection and reporting of permanency-related data is difficult to achieve due to the dynamic nature of the processes involved and jurisdictional differences in legislation, policy and practice.

Common permanency concepts

Despite jurisdictional differences, there are some common concepts related to planning for permanency, and taking action to achieve a long-term care arrangement. The actions related to permanency can be broadly grouped to include: reunification, third-party parental responsibility orders, long-term finalised guardianship/custody orders, and adoption (specifically known-carer adoption). Measurements related to permanency may include, broadly, orders achieving legal permanency and the stability of care achieved.

Permanency data in child protection and adoptions collections

The Australian Institute of Health and Welfare (AIHW) national child protection data collection includes data on finalised guardianship/custody orders and third-party parental responsibility orders. At 30 June 2015, there were 31,129 children on finalised guardianship/custody orders and 9,070 children on finalised third-party parental responsibility orders. Data relating to known child adoption by carer are available in the AIHW national adoptions collection, with limited disaggregation. There were 94 adoptions by carers finalised in 2014–15.

Further analyses of the Child Protection National Minimum Data Set also provide some insights regarding residential stability. Key findings were:

- the majority (70%) of children who had been continuously in care for 2 or more years were on finalised guardianship/custody orders
- three-fifths (61%) of children who had been continuously in care for 2 or more years only had one care arrangement in the most recent two-year collection period
- most (87%) children who had been in care for 2 or more years had also spent at least 2 years in one main care arrangement.

Data development

The AIHW is currently undertaking work to progress national reporting on permanency and long-term care through the development of a reunification/permanency indicator, and expanded reporting on known-carer adoptions. Efforts are also underway to further develop the reporting of available data; for example, the inclusion of additional data relating to third-party parental responsibility orders in the annual *Adoptions Australia* report, and the disaggregation of short- and long-term orders data, with new adoption data and analyses, in the annual *Child protection Australia* report.

1 Introduction

This report provides an overview of the pathways to permanency and long-term care for children and young people in an out-of-home care placement funded by state and territory departments responsible for child protection. Information is presented on the variations in permanency-related concepts, policies and practices which impact on reporting key data at the jurisdictional and national levels. Data on permanency-related processes currently available from the annual AIHW child protection and adoptions collections are presented, followed by an overview of identified gaps in these data collections and the data development work aimed at improving national reporting.

What is child protection?

In Australia, state and territory departments responsible for child protection provide assistance to vulnerable children and young people who have been, or are at risk of being, abused, neglected or otherwise harmed, or whose parents are unable to provide adequate care or protection (AIHW 2016).

There are 3 main components of the child protection system:

1. Assessment and investigation of **notifications** of possible abuse, neglect or other harm: these notifications are screened by child protection departments and, if required, the report is investigated. If the investigation finds that the child is being or is likely to be abused, neglected or otherwise harmed, the notification is recorded as substantiated.
2. **Care and protection orders**: these are legal orders or arrangements that give child protection departments some responsibility for a child's welfare.
3. Children may be placed in **out-of-home care** when parents are unable to provide adequate care, children require a more protective environment, or alternative accommodation is needed during family conflict. This is overnight care where the department makes or offers a financial payment to the carer. In keeping with the principle of keeping children with their families, out-of-home care is considered an intervention of last resort.

For more information on child protection policies and practices in the states and territories, see AIHW 2016.

What are permanency planning and long-term care?

A key aim for children in out-of-home care is to achieve a stable long-term care arrangement. The processes undertaken by state and territory departments responsible for child protection toward this goal are broadly termed 'permanency planning'. Permanency planning, in this context, is defined as 'the process of making long-term care arrangements for children with families that can offer lifetime relationships and a sense of belonging' (Tilbury & Osmond 2006:2).

Long-term care arrangements seek to establish continuity or stability of care, where the carer and the care arrangements remain unchanging over an extended period, once safe reunification with the child's family has been ruled out. In many jurisdictions alternative long-term care is achieved through kinship placement. Achieving long-term care –

particularly when the child is placed outside the kinship network – requires extensive planning, and considerable efforts are put into achieving a match between child and carer, to increase safety and security while reducing the risk of disruption. Safety and security, along with connections and enduring relationships, are 2 key elements of permanency (Tilbury & Osmond 2006).

The third key element is the legal context of permanency. For example, short-term care and protection orders, which incorporate expectations of reunification with the family, are always of 2 years or less duration. In contrast, long-term care arrangements, based on care and protection orders, generally until the child turns 18 years, have an expectation of care for a period of longer than 2 years. As such, the concept of permanency, as discussed in this report, means long-term care for a period greater than 2 years.

Policy context

The concept of permanency within child protection originally emerged in the United States in the 1970s in response to increasing concern that children unable to live with their families were drifting in multiple, unstable foster care placements for extended periods of time (Roth 2013). The potentially negative outcomes for mental health and wellbeing, suitable accommodation, employment, life satisfaction and relational stability, as well as disproportionately high rates of substance abuse and over-representation in youth justice systems among children in long-term out-of-home care, have been extensively documented (Courtney et al. 2001, Leve et al. 2012, Reilly 2003, Strijker et al. 2008, Staines 2016). Recent research by the Prison Reform Trust in the United Kingdom, reported National Audit Office (2015) findings that ‘little or no improvement in such outcomes for children in care [had occurred] in recent years’, and this was compounded by ‘significant placement instability’ (Staines 2016:3).

In Australia, issues related to permanency and long-term care for children and young people in out-of-home care have been the subject of parliamentary inquiries and Council of Australian Governments (COAG) reforms. The consistent goal of these initiatives has been to improve the outcomes for children and young people who enter out-of-home care as clients of child protection systems. Safe reunification is always the policy preference (Fernandez 2014). But where reunification with the family is not possible, early efforts in permanency planning to achieve stable, long-term care will provide the best outcomes. The Senate Community Affairs Committee Secretariat (2015:88, 202) reported evidence that ‘placement stability was one of the most important aspects contributing to positive outcomes for children and young people in care’, and in particular that ‘stability and proper attachment to carers in the early years is critically important for a child’s positive development’. In practice, this may entail concurrent planning, where safe reunification is pursued at the same time as planning for alternative care should the need arise (Child Welfare Information Gateway 2012, 2013).

The *National Standards for Out-of-Home Care* were developed by the Australian and state and territory governments to improve the quality of care provided to children and young people in out-of-home care. These standards recognise the critical role that is played by families and carers in the lives of children and the positive longer-term outcomes that can result from stable, secure attachments. However, it is also acknowledged that children and young people should be matched with the most suitable carers and that the concept of stability is broader than placement stability – stability of relationships, schooling and community are also important (FaHCSIA 2011).

Recent changes in legislation in Australian jurisdictions have reflected the intention to improve permanency and stability for children in out-of-home care. Those changes have focused on early planning for permanency, especially with very young children, and include decisions about the appropriateness of reunification or alternative long-term care arrangements. These alternative arrangements include known-carer adoption or care and protection orders that transfer guardianship and custody. (See Appendix A <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>, for a detailed table of current permanency-related concepts, legislation and policy.)

There is evidence that current permanency planning in Australia differs from other English-speaking nations. Adoption, as a component of permanency planning, is not as widespread in Australia as in Britain or the United States (Fernandez & Atwool 2013). In the United States, the majority of children adopted from out-of-home care were adopted by their foster carers, whereas in Britain 'stranger/matched adoptions' comprised the majority (Selwyn et al. 2014:17).

Building an evidence base

While policy developments across jurisdictions have been aiming to improve permanency and stability for children in out-of-home care, the Senate Community Affairs Committee Secretariat (2015) reported evidence that approaches to permanency are inconsistent across jurisdictions. In recent years research has sought, in Australia and internationally, to identify the most effective approaches for achieving permanency.

Australia's first large-scale, prospective longitudinal study began in 2011 in New South Wales, drawing on a representative sample of children and young people who entered out-of-home care for the first time between May 2010 and October 2011. The study follows in detail the histories of children in long-term foster care or relative/kinship care, residential care, adoption, restoration, and those re-entering care. The research is investigating the outcomes for these children, considering care history, development and wellbeing over time. Future analysis of Wave 1 baseline data will, among other things, compare children's wellbeing in differing types of placements (Australian Institute of Family Studies (AIFS) et al. 2015).

Recent research in Britain compared the outcomes achieved by 3 types of orders, in terms of disruption and re-entry to care. Those orders are: residence orders – now known as child arrangements orders (residence), special guardianship orders, which provide more security than a residence order but cease at 18 years, and adoption orders (CAFCASS 2014; Selwyn et al. 2014).

The research found that age at entry to care was a significant predictor of disruption for all 3 order types, while age at placement and delay between placement and order commencement were predictors of adoption disruption. Children who had multiple moves in foster care and had placements with unrelated carers (rather than kin) were more likely than others to experience disruption of residence or special guardianship orders. However, overall, the disruption rates for all 3 types of orders were low 'compared with the movement that is reported for children who remain in the care system' (Selwyn et al. 2014:273).

In the United States, evaluation of the large-scale, multi-site Permanency Innovations Initiative (PII) is underway. PII is a demonstration project designed to improve permanency outcomes for children in care by increasing the available body of evidence on effective

interventions. The PII aims to increase the rate of children placed in permanent homes, thereby adding to the evidence about what works in child welfare. The project team uses administrative data in evaluation of the different interventions conducted under the PII (US OPRE 2016).

This is possible because technical definitions created for the Adoption and Foster Care Analysis and Reporting System and the National Child Abuse and Neglect Data System have standardised how child abuse, foster care and adoption data are reported across states (US OPRE 2016).

In using administrative data in evaluation of the different interventions conducted under the PII, the evaluation team faced a number of challenges. These challenges mirror some of the difficulties Australia faces in developing national definitions and technical specifications for indicators related to permanency. They included: large and complex relational databases across many different child welfare administrative systems, problems with data quality and completeness, lack of key variables, data access and permission to use the data (US OPRE 2016).

In Australia, while permanency planning to achieve long-term, stable care is undertaken in every state and territory, there is currently no agreed approach for reporting data on that work nationally. In order to build a national evidence base of permanency outcomes achieved in Australia, the development of comparable data based on common technical definitions is required.

The NSW Department of FACS recently established the Institute of Open Adoption Studies, specifically to develop an evidence base for research that will inform future government policy and practice in the areas of permanency planning and adoption from care (NSW FACS 2016).

In order to inform national-level policy making in this area, it is important that nationally comparable data on permanency-related activities and outcomes can be accurately measured and reported. This will require standardised data collection and reporting across all jurisdictions.

Potential data sources

The AIHW manages 2 data collections that include data on permanency-related processes in all states and territories and could potentially include more comprehensive data: these are the national child protection and the adoptions data collections. These data are released annually in the *Child protection Australia* and *Adoptions Australia* series of reports. The collections are jointly funded by state and territory departments and the AIHW.

Child protection data

Child protection data in this report are primarily from the Child Protection National Minimum Data Set (CP NMDS). This longitudinal, person-based data set contains information on the demographics of children and young people who receive child protection services, the details of the notifications received by child protection departments, and the care and protection orders and out-of-home care placements relating to these children and young people. Data are collected for each financial year from each state and territory in separate files. The files of particular relevance to permanency planning and long-term care

arrangements are the 'Care and Protection Orders' and the 'Living Arrangements' files. New South Wales currently provides aggregate data in the form of pre-agreed tables.

For states and territories supplying person-based data, linkage with other data sets, including juvenile justice, homelessness, alcohol and other drug treatment services, is possible.

Box 1.1 provides definitions for the key child protection terms used in this report.

Box 1.1: Child protection definitions

Care and protection order: A legal order or arrangement that gives child protection departments some responsibility for a child's welfare. Permanency-related orders include:

- **Finalised guardianship or custody orders:** Guardianship orders involve the transfer of legal guardianship to the relevant state or territory department or non-government agency. These orders involve considerable intervention in the child's life and that of their family, and are sought only as a last resort.
Custody orders generally refer to orders that place children in the custody of the state or territory department responsible for child protection, or a non-government agency. These orders usually involve the child protection department being responsible for the daily care and requirements of the child, while the parent retains legal guardianship.
- **Finalised third-party parental responsibility:** These orders transfer all duties, powers, responsibilities and authority to which parents are entitled by law to a nominated person(s) whom the court considers appropriate. The nominated person may be an individual such as a relative or an officer of the state or territory department.

Out-of-home care: Overnight care for children aged 0–17, where the state makes a financial payment or where a financial payment has been offered but has been declined by the carer.

Reunification: A planned process of safely returning and enabling a child to remain at home with their birth parent(s) after a period of time in care when it is in the child's best interests to do so, and where it will safeguard the child's long-term stability and permanency.

Time continuously in care: The period of time during which a child remains in out-of-home care. During this period, a child may have one or more different out-of-home care placements, including placements lasting less than 7 days. If a child has a return home or a break of less than 60 days before returning to the same or different placement they are considered to be continuously in care during this period.

Adoptions data

The national adoptions data collection contains aggregate data. Each year, states and territories submit data in pre-agreed tables detailing intercountry, local and known child adoptions. Of particular relevance to long-term care arrangements for children in out-of-home care, are data on finalised known child adoptions by a carer, which is the equivalent of a 'known-carer adoption' (see Box 1.2). (A related project exploring the feasibility of expanding reporting on known-carer adoption is currently underway, see Chapter 4.)

Limited disaggregations are possible because the absolute numbers are quite small. Also, due to the aggregate nature of the collection, data linkage is not possible.

Box 1.2: Definitions of key adoption terms used in this report

Known child adoption: the adoption of a child/children who were born or permanently residing in Australia before the adoption, who have a pre-existing relationship with the adoptive parent(s) and who are generally not able to be adopted by anyone other than the adoptive parent(s). These types of adoptions are broken down into categories, depending on the child's relationship to the adoptive parent(s), the main one being:

- **carer:** foster parent or other non-relative who has been caring for the child and has had the responsibility for making decisions about the daily care and control of the child for the relevant period (as specified by the relevant state/territory department) before the adoption.

Structure of this report

There are 4 chapters in this report:

- This first chapter introduces the report, provides an overview of child protection and permanency-related concepts and describes the available data sources.
- The second chapter explores the complex pathways to permanency and long-term care for children and young people in out-of-home care and the variation due to differences in state and territory legislation and policies. It also presents information on the distinction between legal permanency and actual stability experienced.
- The third chapter explores the available data relating to permanency and long-term care for young people involved in out-of-home care.
- The fourth chapter summarises the identified data gaps and outlines ways in which future reporting can be expanded and enhanced.

Appendixes A and B are available to download from <http://www.aihw.gov.au/publication-detail/?id=60129557071>.

Supplementary tables referred to in this report (those with a prefix of S), are available to download from <http://www.aihw.gov.au/publication-detail/?id=60129557071&tab=3>.

2 Challenges in collecting consistent permanency-related data

This chapter presents information on the complex pathways to permanency and long-term care for children and young people in out-of-home care and how they vary due to differences in state and territory legislation and policies. It also notes the distinction between legal permanency achieved through orders and actual stability experienced by the child.

Permanency planning pathways

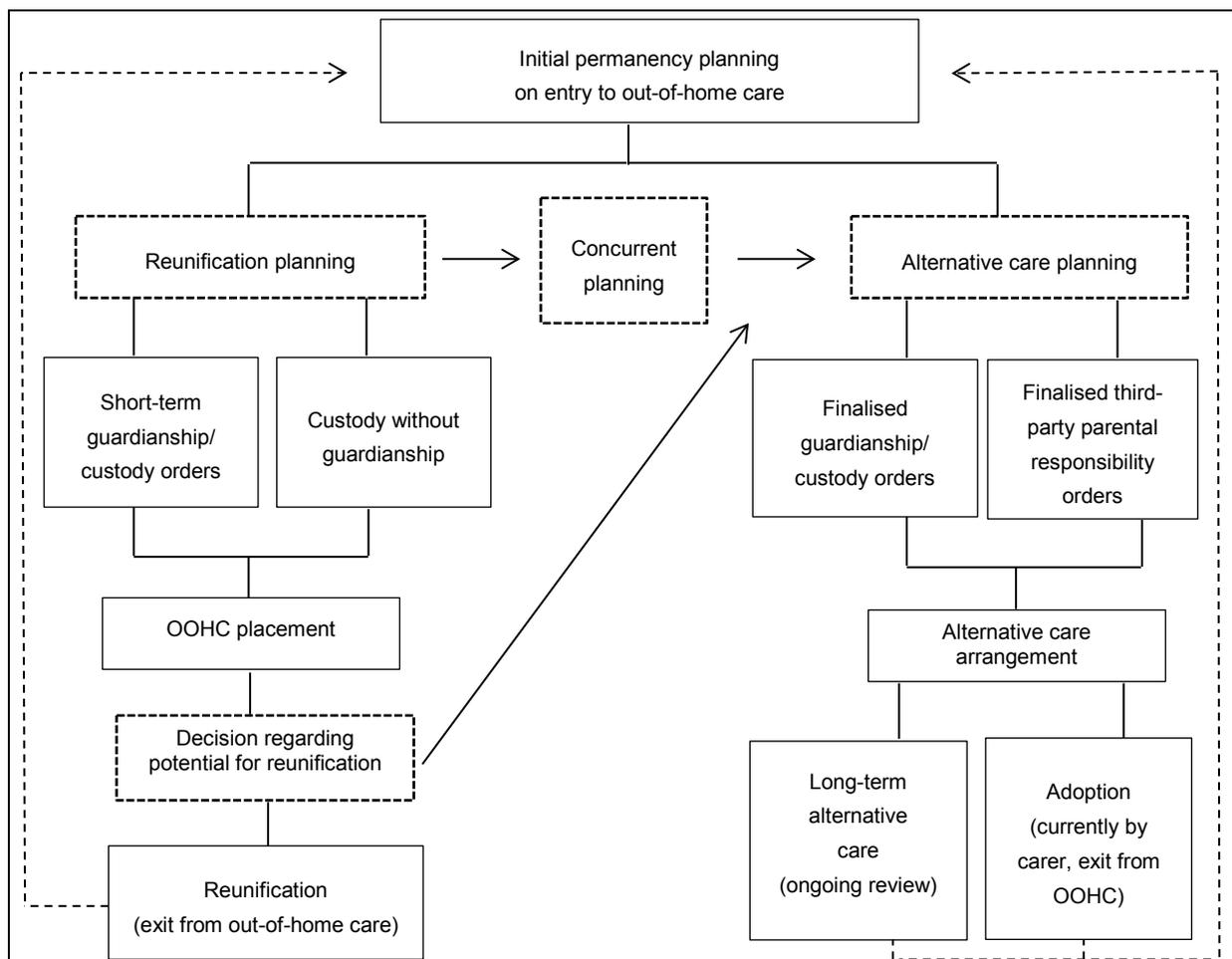
Permanency planning is used in all states and territories with a view to achieving a stable long-term care arrangement for all children in out-of-home care. However, there are different goals and priorities for children, depending on their circumstances, and reunification is not a feasible option for all children. Some children may be on short-term orders with intense work toward reunification underway – for these children the main priority is to work toward permanent reunification with their family. In contrast, for children with long-term orders, the main goal is to achieve a stable, long-term alternative care arrangement.

Each jurisdiction plans for permanency, and takes related actions based on whether safe reunification is possible. Allowing for contingencies (for example, a planned reunification is not achieved) sometimes requires that plans incorporating reunification run in parallel with other plans that exclude it: this is known as concurrent or parallel planning.

Figure 2.1 presents a high-level summary of the steps involved in permanency planning, based on the 2 discrete pathways that either include or exclude reunification. However, it should be noted that:

- Permanency planning is not a static process – children may move from one order type to another and/or from one placement to another either to achieve the most suitable long-term care arrangement, or because of placement disruption.
- Children who have exited out-of-home care (OOHC) following reunification or adoption may re-enter OOHC at a later stage and this would require further consideration about how permanency may be achieved.
- Adoption is often considered as a least favourable preference for Aboriginal and Torres Strait Islander children and adoption by relatives/kin also requires careful consideration due to concerns around family constructs and identity (AIHW 2015).

It should also be noted that South Australia does not consider that care orders provide a pathway to adoption, with adoption being seen in that state as a separate process.



Notes

1. Intervening steps and time frames vary across jurisdictions and plans for each child.
2. The term 'short-term orders' is not used or defined in the NSW *Children and Young Persons (Care and Protection) Act 1998*. Orders are either interim orders or final orders and are made for a specified period of time.
3. New South Wales does not classify children on guardianship orders (a subset of third-party parental responsibility orders) as being in scope for the national OOHC collection. Western Australia does not classify children under third-party parental responsibility orders as being in scope for the national OOHC collection. The term 'alternative care' (rather than 'out-of-home care') has been used to reflect this variation.
4. The implementation in some jurisdictions of concurrent or parallel planning and/or dual authorisation for carers may facilitate children moving from a long-term guardianship/custody order to adoption by carer.
5. In South Australia care orders do not provide a pathway to adoption, which is seen as a separate process.
6. This figure was developed by the AIHW based on the information in Appendix A <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>.

Figure 2.1: Overview of permanency planning pathways

Variations between jurisdictions

Key processes, specified differently in each jurisdiction's legislation and policy documents, underpin practice in relation to permanency; this then affects how data are defined and ultimately how they are reported. (See Appendix A <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>, for a detailed table).

Table 2.1 illustrates how the processes outlined in jurisdictional legislation and policy may be classified as either 'planning' or 'action' processes. Actions are then further broken down

into those related to reunification and those related to alternative long-term care arrangements.

Given the dynamic nature of permanency planning, analysis should focus on the actions taken during a collection period, rather than the planning process. The specification of actions enables discrete permanency-related events to be identified and enumerated.

Table 2.1: Permanency-related planning and action processes in jurisdiction legislation and policy

| Jurisdiction | Planning | Actions | |
|--------------|---|---|---|
| | | Reunification | Alternative care |
| NSW | Permanency planning | Family preservation Restoration | Permanent placement: Guardianship Adoption Parental responsibility to the Minister |
| VIC | Permanency planning (case planning with stated permanency objective) | Family preservation Family reunification | Alternative care arrangements: Permanent care (including care by Secretary) Long-term OOHC Adoption |
| QLD | Permanency planning | Reunification | Long-term alternative care: Long-term guardianship order to the Chief Executive Long-term guardianship order – to a suitable member of the child’s family (other than the parent of a child) or to a suitable person. Adoption |
| WA | Permanency planning (Parallel process—primary (reunification wherever possible) and secondary (OOHC) permanency plans) | Reunification (primary permanency plan) | Long-term OOHC (secondary permanency plan): Protection order (until 18) Protection order (special guardianship) Parenting order (Family Court of Western Australia) Carer adoption |

Table 2.1 (continued): Permanency-related planning and action processes in jurisdiction legislation and policy

| Jurisdiction | Planning | Actions | |
|--------------|--|--------------------------------------|---|
| | | Reunification | Alternative care |
| SA | Placement planning Permanency planning | Reunification | OOHC long-term placement options (alternative care): Other person guardianship Guardianship of the Minister to 18 years |
| TAS | Case planning processes Stability planning | Reunification | Permanent care arrangements: Guardianship of the Secretary to 18 years Guardianship of permanent carer Adoption |
| ACT | Care plans—Stability proposals | Restoration Stability proposals | Long-term placement: Long-term parental responsibility provision Enduring parental responsibility provision Family law parenting order Adoption |
| NT | Care planning Permanency/stability planning | Family preservation Reunification | Placement arrangement: Permanent care order Protection order – long-term parental responsibility direction Adoption |

Note: This summary table was compiled by the AIHW using the information in Appendix A <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>.

While there are variations in policy and practice across jurisdictions, and despite differences in the terminology used, the actions related to permanency can be broadly grouped as follows:

- reunification – also known as restoration
- third-party parental responsibility orders – also known as permanent care, special guardianship, other person guardianship
- long-term finalised guardianship/custody/care (also known as long-term guardianship to the Minister/Chief Executive/Secretary and guardianship to age 18 orders)
- adoption – specifically ‘known-carer’ adoption in some jurisdictions.

(See Appendix B <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>, for a detailed table mapping state and territory care and protection orders to national order types).

Each jurisdiction includes reunification when planning for permanency and all except South Australia specifically reference adoption as a permanency-related action. In South Australia, care orders do not provide a pathway to adoption, with adoption being seen as a separate process.

Recent changes in permanency planning policy in some jurisdictions give preference to adoption over long-term OOHC. In addition, several jurisdictions have implemented processes (for example, concurrent planning, dual authorisation, parallel planning) to streamline the assessment process for foster carers who also wish to be authorised as a prospective adoptive parent; or alternatively, prospective adoptive parents recruited as permanent foster carers (with children generally placed under a long-term guardianship order).

Distinction between legal permanence and placement stability

There is no single concept, definition or data element currently available, across jurisdictions, to standardise when OOHC has become permanent. While the concept of permanency is closely related to that of stability – work undertaken toward permanency is intended to provide stability of care for children – there is a clear distinction between the department making the decision that a child requires a permanent alternative care arrangement and the child being placed in one permanent placement. A long-term or permanent care order in itself may not preclude multiple placements if finding the optimal ‘forever family’ (or ‘family for life’) is the priority. Achieving a permanent placement is not straightforward, and it may take time and often multiple placements to match children with their most suitable long-term care arrangement.

In addition, attempts to measure the number of placements experienced by a child may also be confounded by reunification attempts, changes in placement to allow for co-location of siblings, the use of respite for carers (to facilitate long-term care), and the higher support needs of some children.

Conversely, stability can occur without permanency-related orders. That is, a child may be in a long-term, stable care situation without having the legal permanency of a long-term order or adoption.

In order to capture the work that is undertaken by jurisdictions to achieve permanency, it is necessary to consider both the alternative care actions shown in Figure 2.1 (which are the legal underpinnings of permanency, namely, orders), and the achievement, in practice, of placement stability. Not all orders for legal permanency represent placement stability, and residential stability can be achieved without orders for legal permanency. Therefore, orders alone cannot represent permanency. For this reason, data on the number and type of permanency-related orders should ideally be complemented with data on stability of placements achieved, including:

- Permanency and stability of placements achieved
 - Number of placements and carers (stability/instability)

- Overall time in OOHC placements
- Outcomes (permanency or disruption) – for example, adoption, re-entry to OOHC
- Timeliness of efforts to achieve permanency
 - Reunification decision point relative to age and time in out-of-home care
 - Time in out-of-home care placement before legal permanency achieved.

However, as noted above, each of these measures by themselves may not provide a complete measure of permanency.

3 Permanency data from AIHW child protection and adoptions collections

Child protection and adoptions data do provide some indication of permanency, but these data are not always reported in a manner that leads to a composite picture. This section explores the relevant child protection and adoptions data currently available that may address some of the policy questions relating to long-term care arrangements for children in care.

Available data

Finalised third-party parental responsibility orders, long-term finalised guardianship/custody orders and finalised adoption orders are the orders most relevant to reporting on alternative long-term care arrangements. Data on third-party parental responsibility orders and finalised guardianship/custody orders are readily available from the national child protection data collection. However, currently these orders can include both short- and long-term (that is, to 18 years) orders. The feasibility of separately identifying long-term orders within national child protection data is being explored.

Data on finalised adoption orders are available from the national adoption data collection. The feasibility of including data relating to finalised adoption orders within the national child protection collection is being explored.

Data relating to reunification are not yet available; however, work is being undertaken in this area to develop relevant data to facilitate future child protection reporting.

(For more information relating to data development work, see 'Data development projects to improve reporting on long-term care').

Child protection data

The report *Child protection Australia* currently includes the following data which are relevant to long-term care arrangements for children in care (see Box 1.1 for definitions):

- care and protection orders issued, by type of order
- children on an order at 30 June, by type of order
- children in out-of-home care, by length of time continuously in care.

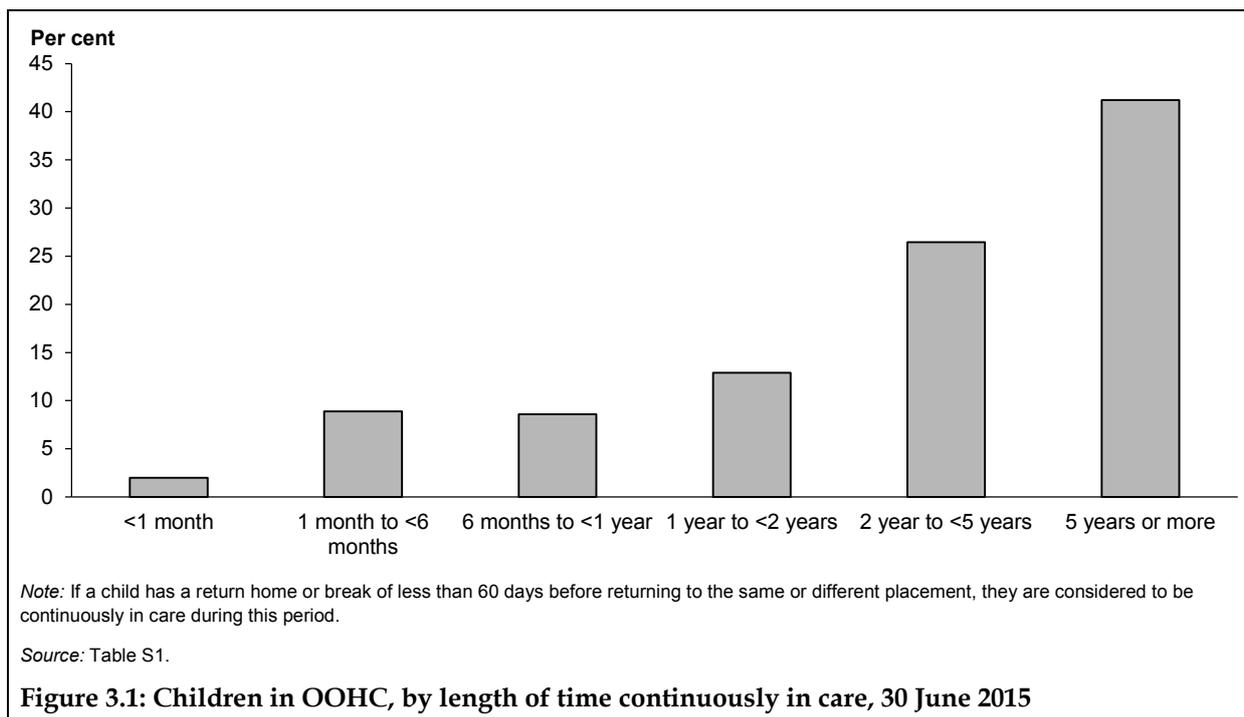
The types of care and protection orders that children are on give an important insight into the potential for permanency, although not necessarily direct evidence of permanency having been achieved. Long-term orders (as opposed to multiple short-term orders) may reflect a type of long-term care arrangement, since it appears that a decision has been made that the child's safety and care needs could be best met in long-term care. However, as children could experience placements with multiple carers while under such orders, consideration of residential stability is also important.

Key statistics currently reported

Of the 48,730 children who were on care and protection orders at 30 June 2015, almost two-thirds (64%, or 31,129) were on finalised guardianship or custody orders. A further 9,070 children (19%) were on finalised third-party parental responsibility orders (AIHW 2016).

Nationally, at 30 June 2015 (Figure 3.1):

- 11% of children had been continuously in OOHC for less than 6 months
- approximately 1 in 5 children (21%) had been continuously in OOHC between 6 months and 2 years
- 68% had been in OOHC for 2 years or more.



Building a composite picture—legal permanency and residential stability

Policy relating to permanency planning indicates that children who have been in care for 2 or more years require a decision to be made regarding their long-term care arrangements. (See Appendix A <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>, for a detailed table of current permanency-related concepts, legislation and policy). Analysis of national data from the Child Protection National Minimum Data Set (CP NMDS) (excluding New South Wales) indicates that this is the case for most of these children.

Legal permanency

The majority (70%) of children who had been continuously in care for 2 or more years were on finalised guardianship/custody orders (Table 3.1). This was consistent across all age groups. However, children aged 2–4 were less likely to be on a finalised third-party parental responsibility order than all other age groups (13% compared with 23% or more for other age groups). These children were also more likely to be on supervisory or interim/temporary orders (Table 3.1).

Table 3.1: Children continuously in OOHC for 2 or more years by order type and age group, at 30 June 2015 (%)

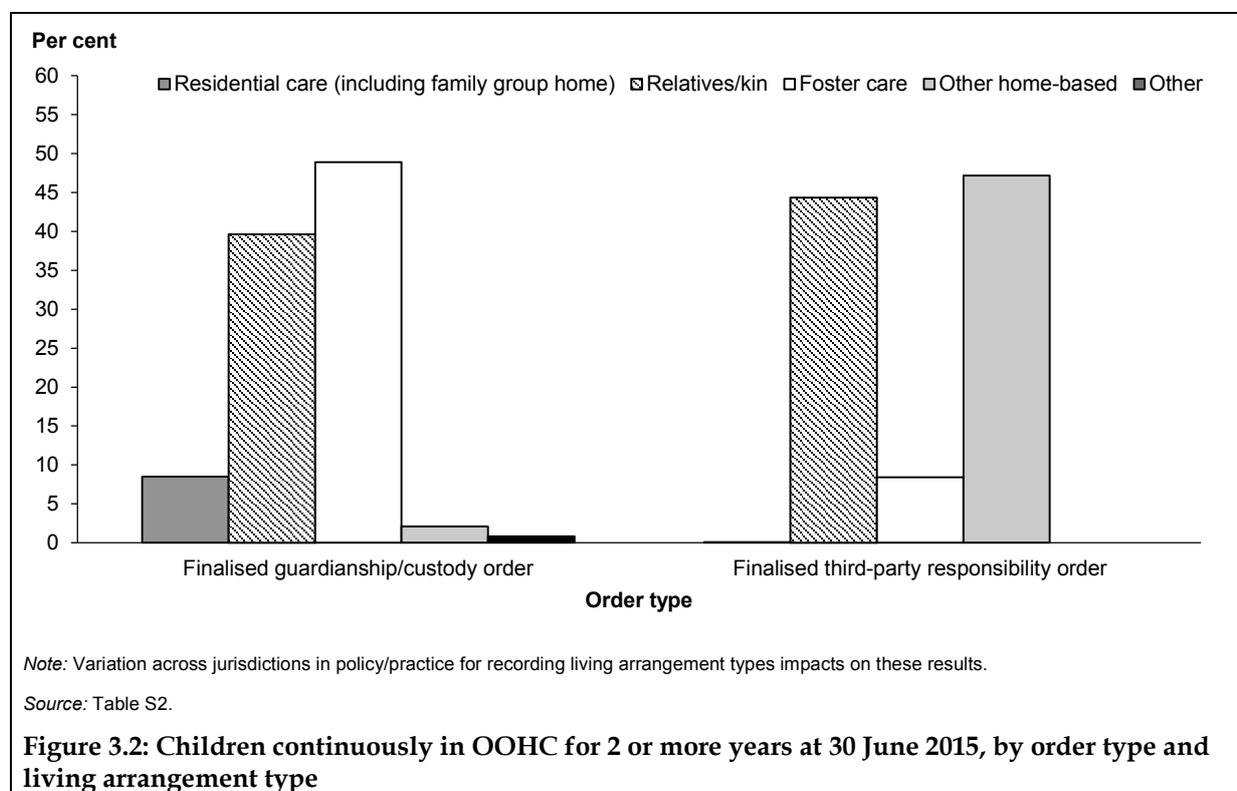
| Order type | Age group | | | | Total |
|---|--------------|--------------|--------------|--------------|--------------|
| | 2–4 | 5–9 | 10–14 | 15–17 | |
| Finalised guardianship/custody | 75.2 | 69.5 | 69.5 | 69.6 | 70.2 |
| Finalised third-party parental responsibility | 12.8 | 23.2 | 25.0 | 24.7 | 22.8 |
| Supervisory order | 1.1 | 0.4 | 0.2 | 0.0 | 0.4 |
| Interim/temporary order | 3.5 | 1.7 | 1.1 | 0.4 | 1.5 |
| Other | 0.2 | 0.3 | 0.3 | 0.4 | 0.3 |
| Not on an order | 7.1 | 4.9 | 3.9 | 5.0 | 4.8 |
| Total | 100.0 | 100.0 | 100.0 | 100.0 | 100.0 |

Source: AIHW Child Protection Collection 2015.

Of children who had been continuously in care for 2 or more years and were on finalised guardianship/custody orders:

- 49% were placed with a foster carer
- 40% were placed with a relative/kinship carer
- around 9% were in residential care or family group homes (Figure 3.2).

Almost one quarter (23%) of children who were in care for 2 or more years were on a third-party parental responsibility order (Table 3.1). Most of these children were placed with a relative/kin or foster carer (this includes the ‘other home-based’ living arrangement type shown in Figure 3.2).



Residential stability

Analysis of data relating to the living arrangements of children in care (such as changes in carer or placement type) can provide information about the degree of residential stability that is experienced. Current national reporting on continuous time in OOHC (Figure 3.1) is based on episodes of care which are derived according to nationally agreed specifications. Episodes may comprise one or more placement and could also include shorter periods where the child was not in OOHC – if a child has a return home or break of less than 60 days before returning to the same or different placement, they are considered to be continuously in care during this period. Accordingly, further analysis is needed to assess residential stability for children who were deemed to be continuously in care for 2 or more years.

The most recent available CP NMDS data cover the two-year collection period 2013–14 to 2014–15. These data include all OOHC placements that were open during the two-year collection period, including those that commenced in a previous collection period. From these data, the number of unique care arrangements experienced in the two-year period can be determined based on carer household identifier or a derived placement identifier for placements that did not have a carer household identifier recorded (such as independent living arrangements). The total time spent in each unique care arrangements can also be determined by summing the time spent in each, based on living arrangement start and end dates. This can include time spent outside the two-year collection period (for example, where a living arrangement started in a previous collection period) and it excludes any breaks in placement.

Table 3.2 shows that three-fifths (61%) of children who had been continuously in care for 2 or more years only had one care arrangement in the most recent two-year collection period. A further 17% had 2 care arrangements, 13% had 3–4 care arrangements and around 9% of children had 5 or more care arrangements.

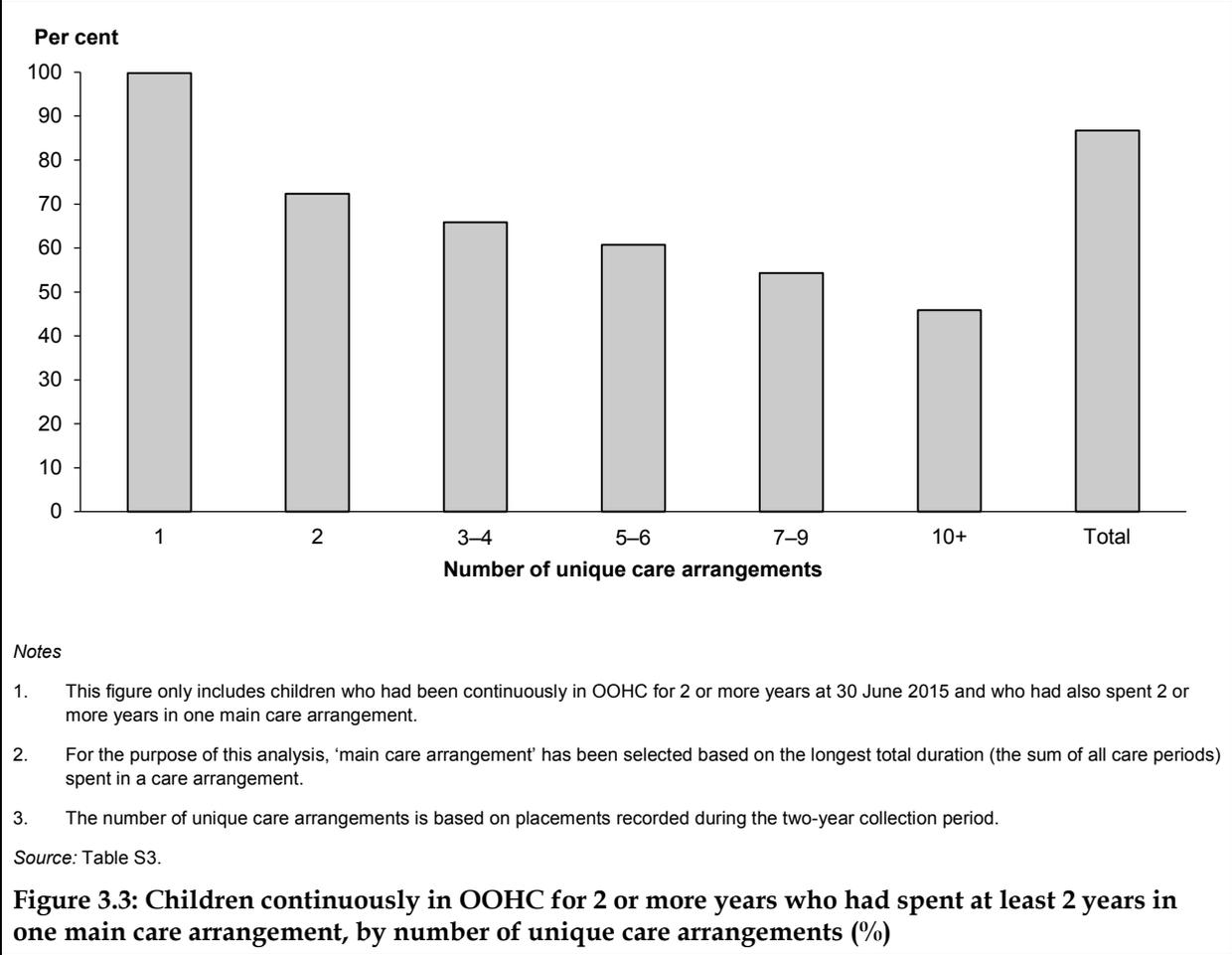
Table 3.2: Children continuously in OOHC for 2 or more years by number of unique care arrangements

| Number of care arrangements | % |
|-----------------------------|--------------|
| 1 | 60.6 |
| 2 | 16.6 |
| 3–4 | 13.4 |
| 5–6 | 5.5 |
| 7–9 | 3.0 |
| 10+ | 0.9 |
| Total | 100.0 |

Source: AIHW Child Protection Collection 2015.

Multiple placements are generally viewed as representing instability for a child. However, as noted previously, attaining stability in relationships is also an important consideration. Further analysis of the child protection data indicates that most children in OOHC, including those with more than one care arrangement, have achieved some level of stability of care, if not permanency.

Figure 3.3 shows that most (87%) children who had been continuously in care for 2 or more years had also spent at least 2 years in one main care arrangement. The proportion of children who had been in one main care arrangement for 2 or more years decreased as the number of care arrangements experienced during the collection period increased. However, it is interesting to note that almost half (46%) of the children who had 10 or more unique care arrangements in the collection period had spent 2 or more years in one main care arrangement.



Qualitative analysis of the data indicates that the higher number of placements experienced by some children may reflect many factors, such as: the use of respite care to facilitate an existing long-term placement, attempts to achieve a more permanent care arrangement (that is, a new placement with relatives/kin or other long-term carer), preparation for transition from care (for example, change in placement to independent living or residential care), or shared care arrangements.

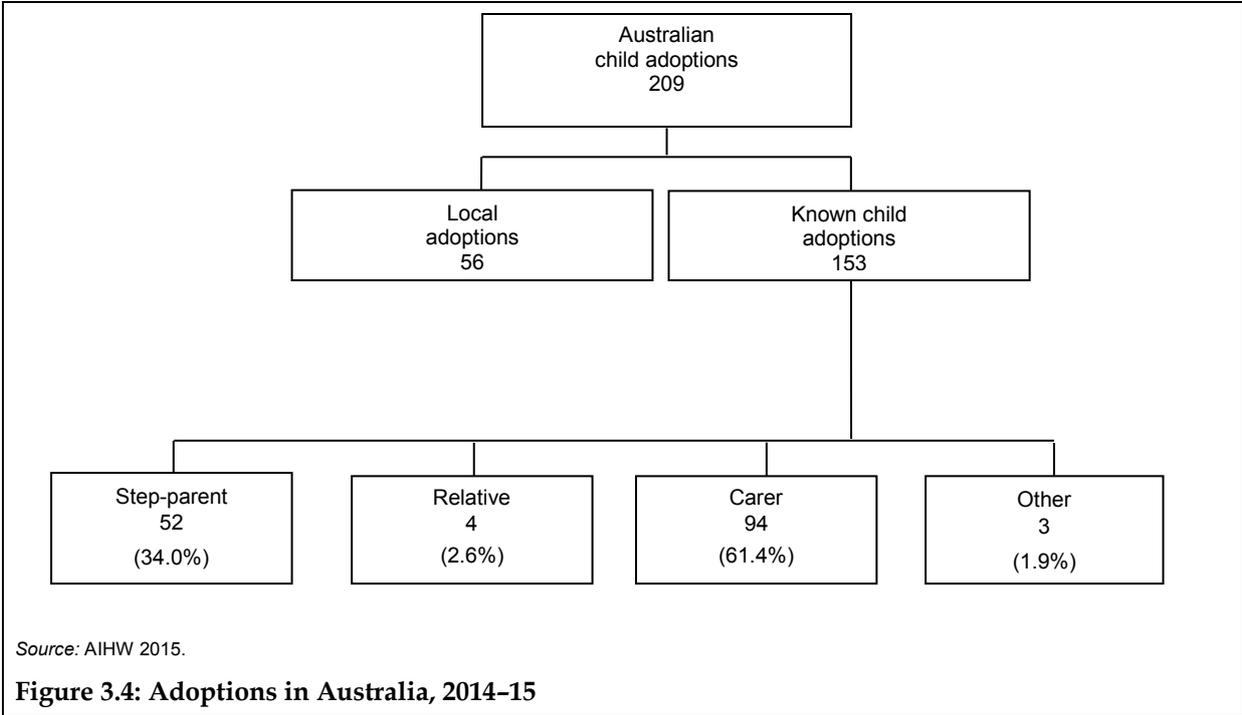
Children may also experience multiple placements due to placement disruption; this could be the result of prior instability – children who have experienced multiple placements may feel detached from their carers and display challenging behaviours which can, in turn, result in placement disruption (Strijker et al. 2008).

Adoptions data

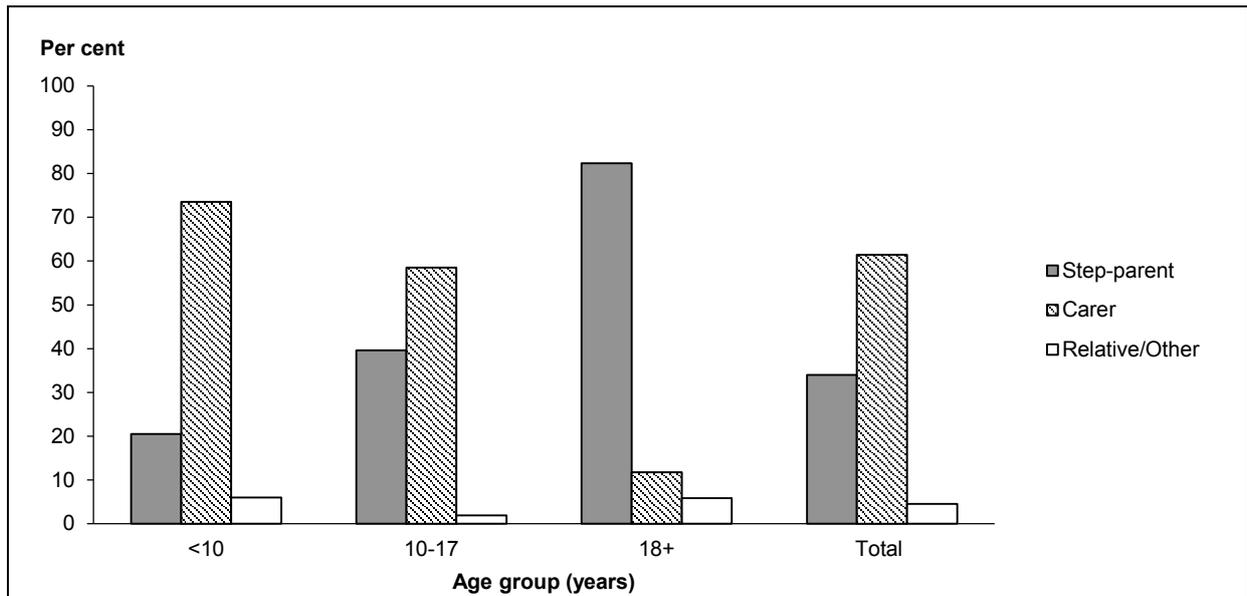
The national adoptions data collection includes aggregate data on finalised known child adoption by a carer, which is the equivalent of a ‘known-carer adoption’. Box 1.2 provides relevant adoptions definitions.

Limited disaggregations are available for this type of adoption, particularly as the absolute numbers are relatively small.

Figure 3.4 shows that 153 known child adoptions were finalised in 2014–15. The majority (61%) of these adoptions were by a carer, such as a foster parent, and most of these (87 of the 94) occurred in New South Wales. This reflects that state’s policies, which increasingly promote adoption to achieve stability for children under the long-term care of state child protective services, when reunification is not considered appropriate. Most (34%) of the remaining known adoptions finalised in 2014–15 were by step-parents.



In 2014–15, adoptions by carers represented the largest proportion of known child adoptions for those aged less than 10 (73%) and those aged between 10 and 17 (58%). However, for those aged 18 or over, 82% of finalised known-carer adoptions were by step-parents (Figure 3.5).



Source: Table S4.

Figure 3.5: Finalised known child adoptions, by type of adoption and age group of child, 2014–15

The *Adoptions Australia* report (AIHW 2015) also provides some contextual information on legislative changes introduced by state and territory departments over the past 20 years, supporting a greater use of alternative legal orders relating to long-term care. These orders, such as permanent care orders in Victoria, transfer permanent parental responsibility of a child, to the exclusion of all others, to a person other than the parent (in most cases, to relatives or carers with whom the child is currently living), often replacing the need for adoption. Similarly, in Western Australia, protection orders (special guardianship) give parental responsibility to an individual, or 2 individuals jointly, for a child until the child turns 18.

A separate section for reporting on permanent care orders in Victoria has been included in the report for a number of years, including data on the number of permanent care orders granted in Victoria from 1992–93 to 2014–15.

Data development work currently underway is seeking to expand reporting on permanent care order (or equivalent) data for all jurisdictions in the *Adoptions Australia* report.

4 Identified data gaps and improvements to reporting on long-term care

This chapter summarises the identified data gaps and outlines ways in which future reporting may be expanded and improved.

Data gaps

As noted earlier, there has been sustained interest in long-term care arrangements and policies related to the adoption of children from OOHC over many years. As part of the *2015 Senate Inquiry into out-of-home care* (Senate Community Affairs Committee Secretariat 2015), the number of children who had been in care for 2 years or more was compared with the small number of children adopted from care. However, as previously discussed, adoption may be one of several ways of achieving permanency. There is a need to standardise reporting on the different ways in which permanency may be achieved, recognising that residential stability is a key indicator of permanency having been achieved.

Table 4.1 presents a selection of measures that the AIHW could potentially develop and report on to inform policy making in relation to permanency and long-term care. The table also presents information on the associated data availability and on any related work being undertaken to improve national reporting.

Ongoing data development

The AIHW has commenced work on 3 projects designed to analyse and report on the range of options used across jurisdictions for achieving permanency. In particular, the projects will:

- develop an agreed 'reunification/permanency' indicator under Standard 1 of the *National Standards for Out-of-Home Care*
 - A national mapping exercise has documented the current care and protection orders used in each jurisdiction, identifying those associated with permanency (see Appendix B <<http://www.aihw.gov.au/publication-detail/?id=60129557071>>).
- expand reporting of known-carer adoptions to better understand the children for whom this permanency option has been used
 - The feasibility of including finalised adoption orders in the national child protection data collection is being explored; this would give more evidence of outcomes. In particular, there will be consideration of whether New South Wales adoptions data could be included in national child protection reporting (of particular importance as currently most known-carer adoptions are finalised in this jurisdiction).
- provide a composite view of long-term care in national reports by:
 - separately collecting and reporting long-term and short-term finalised guardianship/custody orders in *Child protection Australia*
 - reporting on adoption in addition to care and protection orders in *Child protection Australia* (pending results of the feasibility work above)
 - reporting on third-party parental responsibility orders in *Adoptions Australia*, to complement data on known-carer adoptions including relevant research.

Table 4.1: Permanency measures identified and current data availability/development

| Measure | Data available from child protection collection | Current data project | Not available | Comments |
|--|---|----------------------|---------------|--|
| Legal permanency | | | | |
| Adoption | | ✓ | | Finalised adoption order to be added to national child protection collection. Adoptions data provides an aggregate total of known child adoptions by carer. |
| Guardianship/custody order | ✓ | | | Short- and long-term orders are presently aggregated, with disaggregation under review. |
| Third-party parental responsibility order | ✓ | ✓ | | <i>Adoptions Australia</i> provides an aggregate total for Victoria's Permanent Care Orders. Like orders from other jurisdictions also planned for inclusion. |
| Reunification | | | ✓ | Data gap identified. |
| Residential stability | | | | |
| No. of placements | ✓ | | | |
| Changes in residence | ✓ | | | |
| No. of carers | ✓ | | | |
| Length of time in any OOHC placement | ✓ | | | |
| Re-entry to OOHC after legal permanence | ✓ | | | |
| Adoption dissolution | | | ✓ | Adoption placement stability at 12 months is reported in <i>Adoptions Australia</i> . Dissolution beyond this is not. |
| Permanency/reunification | | | | |
| Permanency/reunification flag | | ✓ | | A permanency/reunification flag for CP NMDS is under development. |
| Time from entry to OOHC to legal permanence and residential stability | ✓ | ✓ | | Time to legal permanency by third-party parental order can be derived now however this would be based on the start date of the continuous episode of care and may not reflect first ever entry into care. When the finalised adoption order is added to the CP NMDS CPO file, deriving time to legal permanency by adoption will be possible. |
| Time from reunification/ permanency decision to legal permanence and residential stability | | ✓ | | May be derived when a reunification/ permanency flag is in place. |

Together, these data development projects also lay the foundation for future projects to explore longer-term outcomes in terms of care history, permanency experienced and reasons for exiting care. Future linkage to other datasets would enable study of how children and young people fare when they leave out-of-home care, including longer-term outcomes related to engagement with education, employment, homelessness or juvenile justice systems. This would allow assessment of whether certain outcomes are affected by various permanency decisions and actions taken; for example, whether known-carer adoptions result in better outcomes than other long-term care arrangements, such as third-party parental responsibility orders, guardianship/custody orders and long-term out-of-home care.

Glossary

administrative arrangement: An agreement with a child protection department, which has the same effect as a court order of transferring custody or guardianship. This arrangement can also allow a child to be placed in out-of-home care without going through the courts.

care and protection order: A legal order or arrangement that gives child protection departments some responsibility for a child's welfare. See also **finalised guardianship or custody order, finalised third-party parental responsibility order, finalised supervisory order, interim and temporary order and administrative arrangement.**

child: A young person aged 0–17.

children subject to orders: Children aged 0–17 on a care and protection order or other formal arrangement, or children aged 18 or under who were discharged from those care and protection orders/arrangements. See also **care and protection order.**

custody order: See **finalised guardianship or custody order.**

family group home: A home for children provided by a department or community-sector agency that has live-in, non-salaried carers who are reimbursed and/or subsidised for providing care.

finalised guardianship or custody order: Order involving the transfer of legal guardianship to the relevant state or territory department or non-government agency. This order involves considerable intervention in the child's life and that of their family, and is sought only as a last resort. A guardianship order conveys responsibility for the welfare of the child to the guardian (for example, decisions regarding the child's education, health, religion, accommodation and financial matters). It does not necessarily grant the right to the daily care and control of the child, or the right to make decisions about the daily care and control of the child, which are granted under custody orders.

A custody order is generally an order that places a child in the custody of either the state or territory department responsible for child protection, or a non-government agency. It usually involves the child protection department's being responsible for the daily care and requirements of the child, while the parent retains legal guardianship. Custody alone does not bestow any responsibility regarding the long-term welfare of the child.

finalised supervisory order: Order giving the department responsible for child protection some responsibility for a child's welfare. Under this order the department supervises and/or directs the level and type of care that is to be provided to the child.

A child under a supervisory order is generally under the responsibility of his or her parents and the guardianship or custody of the child is unaffected. Finalised supervisory orders are therefore less interventionist than finalised guardianship or custody orders, but require the child's parent or guardian to meet specified conditions, such as medical care of the child.

finalised third-party parental responsibility order: Order transferring all duties, powers, responsibilities and authority to which parents are entitled by law to a nominated person(s) whom the court considers appropriate. The nominated person may be an individual such as a relative, or an officer of the state or territory department. Third-party parental responsibility may be ordered in the event that a parent is unable to care for a child, with parental responsibility then transferred to a relative.

foster care: A form of out-of-home care where the caregiver is authorised and reimbursed (or was offered but declined reimbursement) by the state/territory for the care of the child. (This category excludes relatives/kin who are reimbursed.) There are varying degrees of reimbursement made to foster carers.

guardianship order: See **finalised guardianship or custody order**.

home-based out-of-home care: Care provided for a child who is placed in the home of a carer, who is reimbursed (or who has been offered but declined reimbursement) for the cost of care of that child. There are 3 categories of home-based out-of-home care: **relatives/kin who are reimbursed, foster care, and other home-based out-of-home care**.

independent living: Accommodation including private board and lead tenant households.

interim and temporary order: Order covering the provision of a limited period of supervision and/or placement of a child. Parental responsibility under this order may reside with the parents or with the department responsible for child protection. 'Unfinalised orders' (such as applications to the court for care and protection orders) are also included in this category, unless another finalised order is in place.

living arrangement: The type of care in which a child on an order was residing. See also **residential care, family group home, foster care, home-based out-of-home care and relative/kinship care**.

notification: Contact made to an authorised department by persons or other bodies alleging child abuse or neglect, child maltreatment or harm to a child.

not stated: Describes information that was unknown or not recorded.

other home-based out-of-home care: A care type where the child was in home-based out-of-home care, other than with relatives/kin who are reimbursed or in foster care.

out-of-home care: Overnight care for children aged 0–17, where the state makes a financial payment or where a financial payment has been offered but has been declined by the carer. See also **residential care, family group home, foster care, relative/kinship care, independent living and other out-of-home care**.

parent/guardian: A natural or substitute parent, spouse of a natural parent, adoptive parent or spouse of an adoptive parent, or any other person who has an ongoing legal responsibility for the care and protection of a child.

permanent care order: See **finalised third-party parental responsibility order**.

relative kinship care: A form of out-of-home care where the caregiver is:

- a relative (other than parents)
- considered to be family or a close friend
- a member of the child or young person's community (in accordance with their culture)
- reimbursed by the state/territory for the care of the child (or who has been offered but declined reimbursement).

For Aboriginal and Torres Strait Islander children, a kinship carer may be another Indigenous person who is a member of their community, a compatible community or from the same language group.

residential care: A type of care where the placement is in a residential building whose purpose is to provide placements for children and where there are paid staff.

respite care: A form of out-of-home care used to provide short-term accommodation for children and young people where the intention is for the child to return to their prior place of residence. Respite placements include:

- respite from birth family, where a child is placed in out-of-home care on a temporary basis for reasons other than child protection (for example, the child's parents are ill or unable to care for them on a temporary basis; as a family support mechanism to prevent entry into full-time care; as part of the reunification process; or as a shared care arrangement)
- respite from placement, where a child spends regular, short and agreed periods of time with a carer other than their primary carer.

sibling: A brother or half-brother, sister or half-sister, whether natural (that is, biological), adopted or foster.

substantiated notification: Child protection notification made to relevant authorities during the current year (for example, 1 July 2014 to 30 June 2015) that was investigated (with the investigation finalised by 31 August) and where it was concluded that there was reasonable cause to believe that the child had been, was being, or was likely to be, abused, neglected or otherwise harmed. Substantiation does not necessarily require sufficient evidence for a successful prosecution and does not imply that treatment or case management were provided. Substantiations may also include cases where there is no suitable caregiver, such as children who have been abandoned or whose parents are deceased.

third-party parental responsibility order: See finalised third-party parental responsibility order.

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List of tables

Table 2.1: Permanency-related planning and action processes in jurisdiction legislation and policy9

Table 3.1: Children continuously in OOHC for 2 or more years by order type and age group, at 30 June 2015 (%).....15

Table 3.2: Children continuously in OOHC for 2 or more years by number of unique care arrangements.....16

Table 4.1: Permanency measures identified and current data availability/development21

List of figures

Figure 2.1: Overview of permanency planning pathways8

Figure 3.1: Children in OOHC, by length of time continuously in care, 30 June 201514

Figure 3.2: Children continuously in OOHC for 2 or more years at 30 June 2015, by order type and living arrangement type.....15

Figure 3.3: Children continuously in OOHC for 2 or more years who had spent at least 2 years in one main care arrangement, by number of unique care arrangements (%)17

Figure 3.4: Adoptions in Australia, 2014–15.....18

Figure 3.5: Finalised known child adoptions, by type of adoption and age group of child, 2014–15.....19

Related publications

This report and associated supplementary information (providing a summary of relevant policy and legislation across jurisdictions and data tables) can be downloaded free of charge from the Australian Institute of Health and Welfare (AIHW) website:

<http://www.aihw.gov.au/child-protection-publications/>. The website also includes information on ordering printed copies.

The following AIHW publications relating to children, youth and families might also be of interest:

- AIHW 2016. Child protection Australia 2014–15. Child welfare series no. 63. Cat. no. CWS 57. Canberra: AIHW.
- AIHW 2015. Adoptions Australia 2014–15. Child welfare series no. 62. Cat. no. CWS 56. Canberra: AIHW.
- AIHW 2015. Australia's welfare 2015. Australia's welfare no. 12. Cat. no. AUS 189. Canberra: AIHW.
- AIHW 2015. Developing a linked data collection to report on the relationships between child protection and youth justice supervision. Data linkage series no. 20. Cat. no. CWS 55. Canberra: AIHW.
- AIHW 2015. Educational outcomes for children in care: linking 2013 child protection and NAPLAN data. Cat. no. CWS 54. Canberra: AIHW.
- AIHW 2014. A new approach to national child protection data: implementation of the Child Protection National Minimum Data Set. Child welfare series no. 59. Cat. no. CWS 50. Canberra: AIHW.

Permanency planning and long-term care for children in out-of-home care can involve family reunification, third-party parental responsibility orders, long-term finalised guardianship/custody orders and adoptions by carers. This report describes concepts and available data in this area, and development work being undertaken to improve national reporting. Available data indicate:

- There were 31,129 children on finalised guardianship/custody orders and 9,070 children on finalised third-party parental responsibility orders at 30 June 2015.
- There were 94 adoptions by carers finalised in 2014–15.
- Most (87%) children who had been continuously in care for 2 or more years had also spent at least 2 years in one main care arrangement.