

NEWSLETTER

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The Office of the Guardian for Children and Young People advocates for and promotes the best interests of young people and children under the guardianship or custody of the Chief Executive of the Department for Child Protection.

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'...there's plenty of [laughter] but also we see the growth in our young participants and hear about positive changes from proud parents.'

Lolly Jar Circus



Drop in to a typical Lolly Jar Circus class and you will see young people, aged four to twenty-six, tumbling, balancing, leaping and juggling. There is laughter, concentration, effort, frequent failure and renewed effort.

Founder of Lolly Jar Circus, Judy Bowden, assures me that this is all safer than it looks.

'Our trainers are very experienced, they do lots of warm-ups and progress the young people from simple circus skills to difficult ones, based on their capabilities.'

'The point of social circus is not the skills themselves but the participant's growth in confidence, resilience and social skills as their strength and coordination grows and success comes.'

'I first saw this sort of thing in action when my own children were involved in [Cirkidz](#) and after that I wondered how learning circus skills might benefit young people with disabilities or from disadvantaged backgrounds.'

'Finally, we put together a board and, with some supporters, created Lolly Jar Circus.'

'Five years later, here we are.'

'In our classes are young people with a wide variety of backgrounds and abilities. In many ways, that is the point, working together and understanding that our community contains many different sorts of people.'

'One of our trainers said recently "what keeps me going is the laughter", and there's plenty of that, but also we see the growth in our young participants and hear about positive changes from proud parents.'

'Recently, I was shown a video of a girl with a disability riding her bike for the first time and then there was the young man with cerebral palsy who could walk into school and hang his bag up unaided for the first time.'

'As well as the trainers who are paid, we are operated by a board, volunteers and myself.'

'We have to make a small charge to cover costs like hall-hire, but some of our donations are in the form of scholarships that we can provide to families who couldn't otherwise afford their children to attend.'

'Some of our students are in state care and it is a good way for them to build skills, confidence and friendships in a safe environment.'

And the future?

'We have some great supporters including the Department for Human Services and the Sisters of Charity.'

'Right now we have classes in Campbelltown, Glandore, Elizabeth and Windsor Gardens and we probably need to consolidate a bit, but in the future it would be good to have permanent premises of our own and, eventually, a paid manager.'

You can find out more about this great operation at the [Lolly Jar Circus](#) website.



What's been done

August 2018 – January 2019

The Training Centre Visitor Program

The pilot visiting program has been finalised with a report set for public release in the coming months. As well as exploring how the Training Centre Visitor (TCV) has carried out her role, the report guides the design of this year's program. The program visits the school and centre units and reviews the facility, with five visits each per term to the Jonal and Goldsbrough campuses and less formal visits in non-term times.

In October 2018, the team conducted a formal review of records into matters relating to the care, treatment and control of children and young people in detention in the Adelaide Youth Training Centre (AYTC). The outcomes of this review will also be included in the upcoming public report. A second review of records took place in late December.

TCV Program staff continue to advocate for individual AYTC residents and work with the centre and other stakeholders on relevant issues.

In November 2018, agencies responsible for the independent oversight of children and young people in youth justice detention across Australia and New Zealand came together in an inaugural national workshop. The workshop followed the meeting of the *Australian and New Zealand Children's Commissioners and Guardians* group, which we organised jointly with the office of South Australia's Children's Commissioner, Helen Connolly.

TCV staff presented to the *Vulnerability and Detention for Youths* Seminar about the establishment of South Australia's TCV Program and Penny Wright gave the opening address at the St John's *Youth Service: Justice for Young People* Conference.

Great practice

Celebrating the many dedicated, caring practitioners who work with children and young people every day we're acknowledging some of the great child-centred work practice The Office's Advocates come across. Here's an 'OOG stamp' for –

- A Department for Child Protection (DCP) office supervisor and her team, working with two Aboriginal siblings acknowledged and strongly promoted the importance of their connection to family, culture and community. Involving family, it was possible to locate potential family members on country to care for them and they were able to return home. One of the DCP team reflected: 'Working with the family in the way we have has certainly been an amazing learning experience, one that I will treasure for the remainder of my working days.'
- A social worker supported a young person in relation to a serious privacy issue that arose at school. Advocating for the young person's best interests, the worker was able to secure their rights. An Advocate observed, 'the compassion and genuineness of the social worker involved was commendable and she truly put the needs of the young person first - wanting them to be treated like any other child who was not in care.'
- A DCP supervisor working with a particularly traumatised young person showed a strong focus on their developmental trauma and listened carefully to the voices of children. This led her to be proactive in a number of decisions that improved the young person's experience of his placement. The Office's Advocates noticed more changes in the other houses she supervised, including incorporating the voice of young people into staffing decisions.

Conferences and presentations

The Guardian and Senior Policy Officer attended the Association of Children's Welfare Agencies' Conference in Sydney, 20-22 August 2018; a great learning opportunity and the Guardian also got to meet some fellow South Australian child protection workers and foster carers from the mid-North.

From August to December 2018, the Guardian presented:

- to Flinders University Social Work and Education students: 'Interventions with Children and Young People'
- Department for Education Conference on Bullying, panel presentation: 'Same, Same, Different' – the experiences of children in care
- the opening address to St John's Youth Services conference: 'Justice for Young People'
- the House of Representatives Select Committee on Intergenerational Welfare Dependence
- the keynote speech to KKY National Child Protection Summit



Oog made several appearances in 2018, including the Christmas Pageant and the DCP Kadina Family Fun Day (above)



(left) The Guardian and the SA Children's Commissioner hosted the Australian and New Zealand Children's Commissioner and Guardians meeting in Adelaide in November followed by a workshop discussing the independent oversight of children and young people in youth justice detention across Australia and New Zealand. [More here.](#)

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The Child and Young Person's Visitor Program

The program has been conducting visits to Department for Child Protection residential care houses and is in the process of planning initial visits to NGO-operated facilities. The CYPVP is currently recruiting more Community Advocates to increase the visiting capacity of the program. The trial of the program will conclude in June 2019.

Advocacy for young people

In the quarter ending 31 December 2018, the Guardian received 93 in-mandate enquiries representing 136 children and young people. Of these enquiries, 60 were requests for advocacy, 13 were consultations about action that could be taken regarding children's circumstances, 11 were complaints that were re-directed and nine were categorised as 'other'. A further eight out-of-mandate enquiries were received by the Guardian during this quarter.



The Guardian and team were happy to accept invitations to a number of end-of-year events including both campuses of the Adelaide Youth Training Centre, the Marion Department for Child Protection Office and the Residential Care Christmas Party. Pictured (above) with the Guardian are the seasonally dressed Rachel Hehir and Nathan McGuinness of DCP Residential Care and a couple of party-goers enjoying some spectacular goo.



Congratulations to the artists and the organisers of the Residential Care Art Exhibition which for the first time featured three dimensional works.

Charter of Rights Endorsements

A Charter Champion is someone who has a strong belief in the rights of children and has embraced the Charter for the benefits it brings to children and young people under guardianship. To date, 422 Charter Champions have been endorsed and there are [88 signed up agencies](#) in the Charter Network.

Publications you may have missed

[The Training Centre Visitor's Annual Report 2017-18](#)
(October 2018)

[The Guardian's Annual Report 2017-18](#)
(November 2018)

[The Guardian's Year in Review 2017-18](#)
(December 2018)

New materials for young people in residential care

In January the Guardian released new resources to enable children and young people in residential care to have a say and make a complaint. They included a [live action video](#), and [animated video](#) and some posters and brochures which can be ordered the [Resources page](#) later in February.



Congratulations to the team at Relationships Australia SA and the young people involved in the creation of the GOM Central website and app. Young consultant Brooke Oliver addressed the launch in November and Penny Wright met some of the young people involved. [More here.](#)



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Check out the Young People in state care Facebook page [Young people in state care](#)



Penny Wright
Guardian

“Government responses that assume ready access to non-existent services or new programs that are not properly planned and resourced are doomed to fail.”

Youth treatment orders

We know that substance misuse can have terrible consequences for children and young people. Developing brains can be ravaged by the use of legally available substances like alcohol and solvents, the ‘benign’ cannabis and a growing pharmacopeia of other drugs. Reduced intellectual capacity, permanent behaviour changes and long-term mental health problems can be consequences of substance abuse. Substance abuse can also exacerbate or be associated with other dangers, risky behaviour, criminal associations and vulnerability to exploitation. Occasionally the consequences are very public and make their way into tragic headlines. We want to protect children and young people and we want to protect the community

Credit must be given to the Government for paying attention to and trying to address this difficult issue with the introduction into Parliament last year of the Youth Treatment Orders Bill which would allow the detention of young people for up to 12 months for treatment.

The Bill as presented, however, raises several important concerns.

Our community is rightly cautious about depriving anyone of liberty who has not been convicted for committing an offence. Our legal system and international treaties to which we are a signatory protect the right of people, including young people, to their freedom. We deprive people of their liberty only under exceptional circumstances, with great care, under very specific circumstances and with the assumption that their rights will be protected in relevant legal processes. We recognise the danger when the legal deprivation of liberty might be misused by a community to dispose of people who become inconvenient. Not just in totalitarian regimes overseas but also in the treatment of Aboriginal people or people with challenging behaviours in Australia in the not-too-distant past. We are rightly cautious about any solution that creates a ‘too hard basket’ into which inconvenient and hard to deal with young people can be tossed.

The second question about the proposed treatment orders is their efficacy. The Bill was introduced with scant consultation with the many government and non-government agencies that have long involvement and experience with young people affected by substance misuse. It also seems to have been drafted with little regard for the experience of other jurisdictions similar to our own in Australia and overseas and for the considerable body of research which points to the complexity of the problem but also some valuable ways forward.

A significant number of the young people who come into state care become involved in substance misuse. The range of circumstances, neglect, physical emotional and sexual abuse that bring them into state care also leave many deeply affected by trauma. Self-medication with legal and illegal substances can become for them a viable way to cope with the pain of that trauma in the absence of other treatments. For others, deprived of secure family and community attachments, the community of drug users can provide a much-needed family and an identity not provided elsewhere.

This particular group of young people is well known to me and my colleagues at the Guardian’s Office. They do not define the extent of the problem but give an indication of the complex reasons why young people turn to substance abuse and suggest the diversity and complexity of the solutions we need to offer if we are going to be effective. There is already a serious shortfall in the provision of mental health service for young people. Government responses that assume ready access to non-existent services or new programs that are not properly planned and resourced are doomed to fail.

While there may be a case for the involuntary detention of some drug-affected young people for short periods, informed opinion agrees that effective rehabilitation will be achieved only by long-term, evidence-based programs that address the individual causes and in conjunction with the family and community that surrounds them.

The Youth Treatment Orders Bill, which is due for debate when Parliament resumes in February, should be withdrawn in its current form. Let us make use of the knowledge and experience in our community and the considerable body of research that exists to craft a response that genuinely assists children and young people with a substance abuse problem while still safeguarding their freedom.

This article first appeared as an opinion piece in The Advertiser in February 2019.

Australia reports to the UN on child rights

The United Nations Convention on the Rights of the Child (UNCRC) is one of the most important documents in preserving the rights of children around the world.

Every five years the Australian Government must report to the UNCRC, a requirement of Australia as a signatory to the UN Convention on the Rights of the Child.

The Australian Government is currently preparing for its meeting with the Committee, following the release of its report in January 2018.

In this final article in the series that began in February last year, we look at two accompanying reports responding to Australia's report to the UN Committee on the Rights of the Child.

The [Australian Child Rights Taskforce](#) is a peak body made up of more than 100 organisations advocating for the rights of Australian children. Convened by [UNICEF Australia](#), the taskforce released its '[alternative](#)' report, which includes the voices of 572 children and young people consulted in 30 locations around the country. It makes 191 recommendations to promote and protect the rights of children in Australia.

Similarly, the [Australian Human Rights Commission](#) (AHRC), an independent statutory organisation promoting and protecting human rights in Australia, released a [report](#). It was written following consultations with approximately 450 children and a further 22,700 through an online national poll on child rights.

While the Government's report is no longer available online, these two reports look exhaustively at matters relating to children in Australia. We are considering some of the areas relating specifically to children and young people in out-of-home care.

Since Australia last reported to the Committee, there have been 24 separate inquiries, which have each identified issues with the child protection sector. The AHRC report finds the number of children and young people in out-of-home care has increased by 18 per cent in the past five years. The alternative report identifies problems with inconsistency and a lack of emphasis on current frameworks being child centred.

Concerns for care leavers

Both reports identify concerns with young people leaving out-of-home care, with the AHRC report finding nearly 35 per cent of young people who leave out-of-home care become homeless. Last year the South Australian Government committed to extending the age young people leave out-of-home care from 18 to 21 years of age.

However, this does not yet include the 11 per cent of children and young people in residential and emergency care. Both reports recommend the Australian Government increase or consider increasing the age children leave care and call on governments to implement policy to prepare young people transitioning to independence.



Over-representation of Aboriginal and Torres Strait Islander children and young people

The reports are both concerned with the continued overrepresentation of Aboriginal and Torres Strait Islander children and young people in child protection and out-of-home care and are almost ten times more likely to enter out-of-home care compared with non-Indigenous children.

The alternative report makes a number of recommendations in this area, including the implementation of nationally consistent standards to respect all five elements of the Aboriginal and Torres Strait Islander Placement Principle. It also calls on the Australian Government to commit to 'Closing the Gap' targets to reduce the rate of Aboriginal and Torres Strait Islander children in out-of-home care.

Transgender and gender diverse young people

Transgender and gender diverse children in Australia can now access Stage 2 medical treatment without requiring court authorisation, but this does not extend to include children and young people in the out-of-home care and juvenile justice systems. These children still require a court authorisation to begin treatment.

The UN Committee will consider the findings of these reports ahead of the formal meeting with Australia. At the end of this process, the UN Committee will provide the Australian Government with its *Concluding Observations*, which will include the progress made by Australia and recommendations for improvement.

While the Committee cannot legally enforce its recommendations, it can provide guidance for the Australian Government to improve its practice and better protect the rights of children and young people. The process is also the opportunity to highlight specific issues, like those discussed above, and create interest for the public and other advocates to hold the Australian Government to account and to encourage it to take action.

Safety in residential care

The safety of children* in residential care is an ongoing issue that overlaps with many other aspects of the care system.

We have matched comments about safety given to the Office of the Guardian by children during our monitoring visits and advocacy, with those from the [December 2016 Royal Commission paper 'Safe and Sound'](#) and found many similarities. In this article, we blend the two sources to answer the questions 'do children feel safe', 'when do they feel safe' and 'what would they suggest to make things safer?'

How safe do children feel in residential care?

Residents often feel unsafe in residential care. Bullying and harassment are common. Adolescents report that they are frequently worried by the threat of sexual harassment and assault. Older residents say that the impact of witnessing violence, self-harm and the abuse of fellow-residents, leaves them stressed and feeling unsafe.

Children generally think it is unlikely that they would be abused or harmed by a worker, although a small number report that they have encountered or heard about abusive staff. Some are concerned by the behaviours of 'creepy adults' and those who try to create inappropriate and overly-familiar relationships with them. Children assess how safe workers are based on their past experiences of abuse, by watching the adults' behaviours and by how other residents act around them.

Many children describe residential care as feeling unsafe due to its instability and frequent changes of staff. Some relate times when they were moved to less safe residential care placements for no reason just so other young people could take their rooms.

A few adolescents report that adults outside of residential care take advantage of children in care, exploiting their need for a sense of belonging, accommodation and money. A few report that some children in residential care engage in prostitution.

When do children in residential care feel safe?

Children feel safe in a placement that is home-like and where young people feel welcome. They like it where things feel 'normal' and where adults look out for them.

They want to see that organisations and workers take a resident's safety seriously, that they are interested and take measures to protect them.

They feel safe when there are cordial relationships with their fellow-residents and workers, and there are other supportive relationships with people outside of the unit, such as with a social worker or teacher.

Stability and predictability are important. Children need to know what is going to happen, and that any difficulties with fellow-residents can be resolved. Routines, reasonable rules and an opportunity to have a say in decisions gives them confidence and a sense of control. They believe that when they are safe, children and young people feel relaxed and calm and are less likely to be aggressive and to harm each other.

Younger residents tend to value security measures such as locks on doors, surveillance equipment and alarms. In



contrast, for older residents, these measures reinforce their sense that residential care is not home-like and is unsafe.

How could we make things safer?

Placements

Find more suitable care arrangements, particularly for those who are younger and more vulnerable and make better placement decisions that allow residents to have a say in how they are matched with other residents. Treat residential care as a long-term arrangement and make sure that changes are kept to a minimum.

Staffing

Train staff about the things that can harm children and their vulnerabilities, particularly their innocence about sexual relationships and exploitation. Have sufficient numbers of properly trained staff so that they have the time to develop relationships and are around to watch out for threats.

Cooperation

Train staff to take on parent-like responsibilities for protecting residents from harm. Get staff to discuss with residents the risks and how to keep themselves safe. Get staff and residents to work together to identify safety risks and develop ways of dealing with them. Staff need to take the initiative in enquiring after residents' safety because it is easier for staff to ask residents if they are being harmed rather than waiting for them to report it. Try to create an atmosphere where there are positive relationships between residents and where young people can look out for each other.

Hearing the resident's voice

Staff need to be prepared to listen when residents raise concerns and to be understanding and patient, even when the issues do not seem important at first. Residents need to be informed that it is OK to raise an issue, what sorts of issues to raise and how to do it. Make sure that it is safe to do so and that they will not suffer retribution.

'A lot of the time it can feel like nothing happens [when an issue is raised] or it gets lost or stuck in the system... No matter what, [issues] should be followed up by someone and the young person should be kept in the loop with regular communication.' — *Young person in residential care.*

'Really building relationships with kids works, because then they feel safer to come to you with pretty much any problem. They're not going to come to you with problems, even if it's something as simple as being bullied, they're not going to come talk to you if they think you don't like them or don't listen.' — *Safe and Sound, p 66.*

*We use the term 'children' to include children and young people up to the age of 18 years. We use terms such as 'adolescent' and 'pre-teen' to refer to specific age ranges within that group

Some quotes from children and young people to Advocates visiting residential care houses in 2018

The house doesn't feel like a home.

I want to see my parents every week, maybe like on Monday. I'd like to see my other brothers and sister sometimes, but I know they are busy. It's not really home, but it is ok though.

This isn't a home, this is a Govie house.

There are so many carers—too many to name.

It's like being on a holiday and staying in a hotel.

It would be better if I could ride my bike to school. All my friends get to hang out and ride around after school, I am the only one who gets picked up and taken home.

[About sensors above the bedroom door] I feel like a prisoner in my own room, I don't understand why it's there.

It pisses me off that no one is ever pulled up for all the shit they give out to other kids in here.

No one respects me in here. The carers always tell me what to do and don't listen to what I want.

It's like being on a holiday and staying in a hotel.

Unless you're one of the younger residents here or go to program, then you get nothing. I feel like I'm not good enough compared to everyone else here.

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