

# NEWSLETTER

GPO Box 292, Adelaide, South Australia, 5001  
email [gcyp@saugov.sa.gov.au](mailto:gcyp@saugov.sa.gov.au)



*The Office of the Guardian for Children and Young People advocates for and promotes the best interests of young people and children under the care of the Minister for Families and Communities.*

## Entry into care

One matter raised with this Office early on in our consultation was that of children and young people in care just not knowing who they could contact when things go wrong. One 13 year old boy when asked why he didn't tell anyone about the physical punishment, said he thought that this placement was his last option after several shifts.

Everyone we've spoken to supports the need for information provided directly to the children and young people to help them act on their right to good quality care. As you can guess this is easy to say and not so easy to do.

It is not just information on rights and making complaints that children need. They need information on what is happening to them, what they can expect, about their carer and caseworker, about their family and how they can participate in decisions.

In February and March we investigated how this might be done. At the very least we want to provide children and young people with information about their rights, who to go to for help and how they can complain. It would be great to provide them with the other information too but we may have to do this in stages.

The investigation concluded that there are significant deficiencies in the provision of information to children and young people at the point of entry in to care and at most other points of their 'in care' history. The information will need to be provided in a range of media, taking into account age range, developmental delays and disabilities, transience and chaos, and cultural differences.

Key roles in information provision are played by the caseworker and the carer, but also by teachers, counsellors and doctors.

Keeping children and young people safe extends well beyond simply providing them with information but the information can empower them to act and inform an advocate for the child.

In the next six months we will work with communications experts on condensing the messages and developing the material.



Pam Simmons  
Guardian

## Letter from the Guardian for Children and Young People

As reported in the February newsletter the early months were taken up with establishing the office and talking with many people about child protection. In the ninety interviews and workshops a large number of issues were raised with us. The most significant of these issues have been reported to the Minister. Some matters were easily resolved with further information and some were specific to a part of the system and are being pursued.

Here I summarise those issues which generated widespread concern and require a more planned and thorough response. I do not attempt to discuss these matters in this short letter. I am happy to hear from you further about these and some will be elaborated on in future newsletters.

### Limited out of home care placements and choice of service models

The need to expand the number of placements and models of care has been acknowledged and partly addressed since 2003. There are still significant problems, not only with choice, but with too few vacancies in residential and family-based care. Choice of placement is rarely possible and children are placed at great distance to their family, school and case worker. Case workers point out that the success of other services such as schooling, family reunification and therapy often depends on the stability of placement.

### Care and protection orders and related process

There is preventable instability for children in drawn out court proceedings. There is a wide range of views on the main causes of delays to a firm decision. Some of this clearly lies in the matters being complex, emotional and highly significant to the future of the children and their families. It will always be difficult to make well-informed confident decisions rapidly in this environment. However there are also reports of frustration on both the Courts and CYFS parts about what is expected and the quality of practice and capacity for intervention.

### Aboriginal community connection

Many are concerned that the Aboriginal Child Placement Principle is being interpreted in its narrowest sense with too little regard to supporting cultural connections regardless of the placement. There are obvious exceptions to this with some short-term projects underway which help case workers in their search and support of cultural connection.

### Children's payments

There is widespread recognition that children's payments (reimbursement for the costs of caring) do not cover the real costs of caring, especially when the child is first in care or has moved placement. The requests for additional financial help often cause tension between the CYFS staff and the carers. There is also concern that relatives caring for a child under Voluntary Care Agreements are paid less than other carers.

### Young offenders and protection

In the view of youth justice workers among others, young offenders are often not offered a care and protection response regardless of their home circumstances. This works against the benefits of a single Department offering services to both groups. Workers also acknowledge that services to adolescents at risk have been sacrificed in an environment of high child protection demand and priority given to younger children.

*The Office of the Guardian works to improve services to children in care, promote and protect the rights of children and to strengthen their voice.*

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## Inter-agency cooperation

Cooperation between agencies in providing services to children in care is essential to meeting their need for assistance in education, health and wellbeing. Inter-agency cooperation has suffered under the pressure of high case demand, responding to crises and delays in service response. In some cases there is reluctance to seek help from other agencies perhaps in anticipation of a slow or no response. There are signs of improvement here, particularly in the demonstration projects for 'rapid response'.

## Rights and complaints

A key measure to protect children and young people from abuse, discrimination or disadvantage is knowledge of what they can expect, what is not right and accessible complaints mechanisms. There is considerable work to be done in this area, targeted at children and young people in care. Many have missed out on learning self-protective behaviours at pre-school and school and are particularly vulnerable.

Once again I thank you all for your generosity in sharing your thoughts and experience with me. I look forward to working with you in addressing these major weaknesses in the care and protection system.

*Pam Simmons, Guardian for Children and Young People*

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# What's been done?

## March 2005 – May 2005

While the first months were taken up with introductory meetings and establishing the office, this quarter has seen us implementing some project ideas and firming up our role and relationships with others.

The meetings continue but we are now reporting on progress and the early impressions we have gained. This is all part of our monitoring role. We have regular meetings with the Minister, the Executive Director of Children Youth and Family Services and the CREATE Foundation.

We have given nine presentations to groups in this quarter which have been well received and provided us with the opportunity to discuss some of the more significant issues identified. [See p 2 this issue]

The delegation of powers has been completed and the protocol between Children Youth and Family Services and this Office for the exchange of information is also now in place. A separate protocol will be negotiated with the non-government alternative care agencies through their peak body.

As part of the ongoing evaluation of our own performance we convened a meeting of people with a major interest in this Office. It was very useful to get some early feedback and to discuss priorities in the near future. While difficult to sum up a two hour meeting in a few lines it was clearly significant that we balance our watchdog role with cooperation and strong systemic advocacy. Participants also thought that strengthening the independence of the Office was critical to securing confidence in our role and to people raising matters with us. Among other things the charter of rights will give us a reporting framework in future years.

The Office also convened a meeting of experts to discuss the prevention of sexual abuse in care. [See p 4 this issue] With the media spotlight on spectacle and scandal it is imperative that government response be swift but also measured and well-founded. The Mullighan inquiry will provide further impetus for protective measures.

You may have noticed that we have not advertised our location very widely. That is because we are in temporary offices which are not easily accessible. We are now in the final stages of arranging relocation to new offices on Level 4, 50 Grenfell Street.

*"Give children what's right, not what's left."  
Rhiannon age 10 3/4*

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# Preventing sexual abuse in care

In December 2004 the Commission of Inquiry (Children in State Care) commenced. It is inquiring into allegations of sexual abuse or criminal conduct resulting in death while the person was a child in State care.

The Inquiry, headed by Justice Ted Mullighan will provide an initial report to Parliament in May 2005 with a final report due by the end of the year.

The findings and recommendations from the reports will be significant to the work of this Office, among others, in ensuring that sexual abuse in care is minimised. This Office will report to the Inquiry on three questions:

- What changes have taken place in the recent past to minimise the potential for sexual abuse?
- How confident are we that children are now protected from sexual abuse while in State care?
- What further changes should be implemented to better protect children in State care?

Following a literature review and the preparation of a discussion paper a group of 14 experts met to debate the key themes in preventing sexual abuse in care. Their wisdom will hopefully be captured in the submission we make to the Inquiry.

The debate was lively and well informed. The submission is being written now but below we highlight just some of the responses to the discussion paper.

- Relying on numbers of reports and confirmations is a very imprecise measure of the extent of abuse.
- The use of the term 'institutional care' in inquiries and in research is problematic. In different decades and in different countries it refers to different congregate care arrangements. The term itself commonly conjures up images from the past and has become linked to cruelty, abuse and neglect.
- There is a higher level of scrutiny now that should reassure us that abuse is less likely to occur. This is complicated though by a legitimate claim to greater privacy in family settings, including foster care.
- There is little aggregated information that distinguishes between sexual abuse while in the care of relatives and non-relative care, and abuse by one child against another.
- While we pay greater attention to listening to children and young people this is not always supported by a trusting response and relationship, acting on their concerns or empowering them in the organisation or family.
- There are still significant improvements to be made in complaints procedures, protection for whistleblowers and identification of unsuitable employees.
- Other structural factors must be addressed such as quality of supervision and training, the influence of gender and power, lack of clarity in rights and standards, and inconsistency in tolerance of abuse based on assumptions about cultural differences.

If you want to contribute to the submission and respond to the discussion paper contact us at [gcyp@saugov.sa.gov.au](mailto:gcyp@saugov.sa.gov.au).

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# Charter of Rights

In February this Office convened a project management group to decide how best to proceed with informing children and young people in out of home care of their rights. The group comprised representatives from Children Youth and Family Services (CYFS) including the Alternative Care Unit, the CREATE Foundation and the Child and Family Welfare Association (SA).

While there has been a *Commitments in Care: Charter of Rights for Children and Young People* booklet which was published in 1997, this charter does not appear to have been widely used. Reasons for this vary, from the language used to confusion about its intent. The *Commitments* appeared to have two purposes: a series of commitments by agencies and a charter of rights.

The group decided to develop a separate *Charter of Rights* for children and young people in out of home care. The commitments by agencies should be incorporated in service agreements with providers of alternative care and in service delivery.

To develop a *Charter of Rights*, the Office of the Guardian in conjunction with the Project Management team, has engaged a facilitator to work with staff from CYFS, the alternative care non-government organisations and most importantly with children and young people. We expect that there will be at least eight workshops commencing in June and July. A draft *Charter of Rights* would be prepared in consultation with the Project Management Team by August 2005.

This draft will be widely distributed to children, young people, their carers and staff involved in their care and all other agencies that have been identified as having an interest in the project. We intend to distribute the draft with a Fact Sheet which will outline the process and ask for feedback and suggestions.

Ensuring children and young people know their rights goes only part of the way to empowering them to achieve the best possible care available and to have their voice heard. The next step will be the implementation phase where this Office, in conjunction with others, will work with children, young people and key agencies to ensure that children and young people know how to have these rights upheld.

If you have any queries or comments regarding the draft *Charter*, please contact Angela Andary on 8207 0797 or [andary.angela@saugov.sa.gov.au](mailto:andary.angela@saugov.sa.gov.au)

*We believe that children and young people in the care of the Minister can have the best services, be safe, well cared for and have their views heard and acted on.*



*Jan Buczko  
Office Administrator*

## Introducing Jan Buczko Office Administrator

**M**y first position in the public sector was in the Aboriginal Services Division (ASD) as a personal assistant to Sandy Miller and later as executive assistant to the Executive Director Brian Dixon. Working within ASD gave me an understanding of the social and health problems encountered by Aboriginal people on a daily basis. I then won a temporary appointment within the Mental Health Unit as an administrative/project officer. In the Mental Health Unit I gained insight into the extent of the mental health problems within our community. Learning more about both the Aboriginal and mental health issues have greatly contributed to my social conscience.

With the formation of the Department of Families and Communities, my substantive position within the Department of Health was moved to the Office of the Guardian. I had absolutely no idea what the Office of the Guardian was or its role apart from being told on the Friday where to report on the Monday. With only three appointees to the Office, my position has naturally evolved into that of Office Administrator.

Whilst the challenges of the Office are many and varied, it is exciting to be involved in hopefully being able to make a difference for the children and young people in care.

Prior to this, I was involved for a number of years in the entertainment industry in all facets of box office ticketing, event and venue management.

How did I get to where I am? Just lucky I guess!

For relaxation, my partner and I have purchased 11 acres at Aldinga where we have 600 olive trees, 60 almond trees as well as apple, peach, lemon, pear, walnut and numerous native trees. We produce olive oil and table olives, which I hope will be a beautiful accompaniment to the goat's cheese that Angela intends to make.