

Guardian for Children  
and Young People

**2010-11**  
**Annual Report**



Government  
of South Australia

September 2011

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Office of the Guardian for Children and Young People

GPO Box 2281

Adelaide SA 5001

DX 115

Ph 08 8226 8570

Fax 08 8226 8577

[gcyp@gcyp.sa.gov.au](mailto:gcyp@gcyp.sa.gov.au)

[www.gcyp.sa.gov.au](http://www.gcyp.sa.gov.au)

The Hon Jennifer Rankine MP  
Minister for Families and Communities  
GPO Box 1563  
ADELAIDE SA 5001

Dear Minister

I am pleased to present to you the annual report of the Guardian for Children and Young Persons for the year ended 30 June 2011, as required under Section 52D(2) of the *Children's Protection Act 1993*.

This report provides a summary of the activities and achievements for the 2010-11 financial year.

Yours sincerely

A handwritten signature in black ink that reads "Pam Simmons". The signature is written in a cursive style with a large, looping initial "P".

Pam Simmons  
Guardian

30 September 2011

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## What we do

The Office of the Guardian for Children and Young People promotes and protects the rights of all children and young people under the age of 18 years who are under court orders granting guardianship or custody to the Minister for Families and Communities. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

The position of Guardian for Children and Young Persons was established in an amendment to the *Children's Protection Act 1993* proclaimed on 1 February 2006.

We work to improve services to children and young people in out-of-home care, to promote and protect their rights and to strengthen their voice. To do this we work in partnership with children and young people, their families and carers, government agencies and non-government organisations.

The Office of the Guardian is an independent government agency and the Guardian advises the Minister for Families and Communities.

### Functions

Under the establishing legislation the Guardian has six statutory functions:

- to promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care
- to act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse
- to monitor the circumstances of children under the guardianship, or in the custody, of the Minister
- to provide advice to the Minister on the quality of the provision of care for children under the guardianship, or in the custody of, the Minister and on whether the children's needs are being met
- to inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care
- to investigate and report to the Minister on matters referred to the Guardian by the Minister.

We report against these functions in this annual report.

### **We believe**

We believe that children and young people have fundamental rights which include the right to feel good about themselves, the right to live in a place where they are safe and well cared for, the right to get the help they want or need and the right to understand and have a say in decisions that affect them.

### **Our values**

- We are caring, brave and tenacious in our advocacy for children and young people.
- We are mindful of the responsibility, independence and reach of our office.
- We seek others' perspectives, and take decisive action to do the right thing. We are optimistic that through this commitment change will happen.
- We are committed to ensuring the voice of children and young people informs our work and are active in pursuing their best interests. We encourage others to do the same.
- We are respectful of the challenges facing children and young people and our colleagues in pursuing their best interests.
- We act ethically, with understanding and take responsibility to create confidential, safe spaces that facilitate honest and robust interactions.
- We are playful and creative in our work and encourage innovation.

## The year in review

The Guardian for Children and Young People promotes and protects the best interests and rights of children and young people under the guardianship, or in the custody, of the Minister for Families and Communities. The Office of the Guardian is an independent government office to advocate for children's interests and to advise the Minister.

*In 2010-11 the Office of the Guardian:*

- Inquired about children's experience and views of contact with their siblings.
- Facilitated discussion and reports on community visitors, mental health, children's rights and children in immigration detention.
- Worked with four major government departments and 24 non-government organisations and peak bodies in incorporating good information sharing into their policy and practice to better protect children.
- Distributed 3,952 copies of the *Charter of Rights* to children, accompanied by other 'being in care' products.
- Reported on agencies' implementation and support for children's rights in accordance with the *Charter of Rights*.
- Produced a DVD in partnership with young people about children's views of their social workers.
- Audited 246 annual reviews of the circumstances of children under guardianship.
- Responded to 111 requests for assistance involving 168 children and young people in alternative care. Twenty-nine per cent of these requests came from children or young people themselves.
- Visited 362 children and young people living in residential care or youth training centres, with 75 announced visits.
- Commissioned an independent review of the Office's performance and impact, leading to new strategic directions for 2011 and beyond.

*There are rising numbers of children in state care*

This year has seen continuing growth in the numbers of children under guardianship or custody of the Minister. At 30 June 2011 there were 2,410 children, excluding those on investigation court orders, up from 2,302 the year

before. This represents a 5 per cent rise in 12 months and a 35 per cent rise over five years.<sup>1</sup> This growth trend is similar to most other Australian states and territories.

Continuing growth in the number of children coming into care has many implications. Children coming into care are dealing with both the impact of the harm they have suffered prior to coming into care and the uncertainty of their immediate future. They are therefore very dependent on the adults around them for making sound decisions in the child's best interests.

The second implication of the rise is that the adults working in child protection feel under more pressure, with available time for sound decision making seeming to shrink while demand grows.

Third is the strain on those providing and supporting alternative care for children. Nobody is comfortable with some of the measures resorted to in the lack of family-based placements, such as staff engaged on a casual basis to care for children in rented rooms or houses. In general, the quality of care in these makeshift circumstances leaves a lot to be desired.

And finally there is an increasing number of angry and alienated parents of children who have been removed and who believe they could have kept them safe.

#### *There are different views about what is to be done*

There are several reasons for the growth in numbers of children in care and these reasons are the topic of heated debate. More children are coming into care at a younger age, that is, the decision to remove them from family is being made sooner rather than later. On its own this is generally a good thing, if the decision has been made on sound information, assessment and review.

A second reported reason is that children are staying longer in care, so there are fewer returns to the immediate family once removed. If this is a sign that cycling of children between family and alternative care is happening less often this may be beneficial for children (provided the decisions are fair and sound). However, it is not acceptable if it is because attempts to reunify families are being made too late or for too short a time to be effective.

One controversial proposal is to increase the use of adoption of children in state care. Also controversial is the slim effort made to support families to be better able to care for their children. At the heart of both is what is of most benefit to children. Clearly stability, security and a sense of belonging are critical to children's healthy development and the best place to provide this is with a family who loves and cares for them.

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<sup>1</sup> The figures provided at time of publication are subject to adjustment and often are adjusted upwards.



At first glance, adoption should be good for children who cannot return to their birth family. They would have a new family and they would be out of state care. Adoption is more often used in other countries than in Australia, as a permanent arrangement with transfer of guardianship to another family. It is less favoured in Australia, partly because of the goal to preserve the connection between children and the family they were born into which many young people seek out as they get older. The question of adoption and its benefits to children will not easily be resolved. My concern is that talk of increasing the rate of adoption often comes up in the context of reducing costs rather than improving the stability of care for children.

The level of effort to support families to better care for their children appears to be mixed in South Australia. There is a good range of services for families who only require advice and occasional assistance. There is much less available for families who need more intensive help. Since the 1990s South Australia has lagged well behind other Australian states in its expenditure on intensive family services and the demand for such services have reportedly risen.

In 2009-10, the latest figures available nationally, South Australia spent one-fifth of the national average on intensive family services per child. In the 2010-11 budget, the funds available in the Family and Community Development Program were cut by 23 per cent (\$3m). This cut will take effect this year and continue into next. It was a welcome surprise when \$4.7million per annum for the next four years was added back to reunification services in the 2011-12 budget. **The approach to family services seems disjointed, opaque and unplanned. Money is taken out and put back in to family services, but the reasoning for withdrawal and investment is unknown. There is need for an articulated plan and sound approach to assisting families who have high need, as this is an area of public responsibility that would benefit most from increased investment in South Australia.**

*The quality of care is more closely monitored*

There is increasing emphasis on reporting on quality of care issues and outcomes for children in state care.

High quality care of children in alternative care is threatened by the need to stretch resources further to accommodate more children. In this case at least, the planning ahead for alternative care has recognised this and the 2011 state budget saw another injection of funds for meeting the expected growth in children requiring care over the next few years. This was a little over \$10 million per annum.

There are now state and national standards for the provision of out-of-home care. The national standards were adopted by all governments in late 2010 as part of the *National Framework for Protecting Australia's Children 2009-2020*. While there

is clearly a long way to go in ensuring high quality care, the expectations are now much clearer. This is a good step forward because it focuses attention on the impact on children of poor or mediocre service and de-emphasises the budgetary arguments of organisations providing services.

Our monitoring, reported in the body of this report, suggests that:

Placement instability is increasing, resulting in more children in tenuous care arrangements.

One in three young people approaching adulthood do not have a plan for their leaving state care.

Much more needs to be done to ensure children and young people have a record of their history and achievements, and to include them in decisions about their lives.

*Building more large residential facilities is a poor decision*

The state government has responded to the growth in the numbers of children requiring state care by expanding residential care for children, because too few family-based placements are available for children and young people. If emergency care is included in the count, there are now 357 children living in residences with rotating carers (13.8 per cent of all children in care). This compares with 211 five years ago (12.6 per cent).

Residential care is rarely an ideal home environment for children. It is therefore incumbent on us to provide the very best residential care possible. A great deal is known about what works best for children who live in residential care and it is clear that smaller, more home-like residences for three or four children are safer and more effective.

In the recent state budget the government announced plans to build two more residential facilities accommodating up to 12 children at each site. This is in addition to the six large facilities built in the 1980s and two more which opened in 2009-10.

**I am deeply disappointed at the decision to expand the number of larger facilities. My advice in 2005, made in the context of preventing sexual abuse in care, was to progressively replace the large units with more home-like residences of a smaller number of children. This advice has been repeated every year since, with mounting evidence of lack of safety and security for the young people housed in larger units.**

As there is no evidence to support an argument that housing larger numbers of high-need young people together is in their best interests I can only assume that this is chosen because it is cheaper.

*No shortage of goodwill and commitment*

In our work in the Office of the Guardian, I am reminded every day of the strength of children and young people to recover, strive and achieve and the professional and personal commitment of their carers and workers in child protection and youth justice. At times our relationships are tested by different viewpoints, scrutiny and our intervention. I thank everyone my Office has worked with over the past year for your cooperation and goodwill. The progress reported here is testament to children's, workers' and carers' resolve.

## Who we work for

We promote and protect the rights of the seven in every thousand South Australian children and young people who are in the custody or guardianship of the Minister for Families and Communities. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

As at 30 June 2011 in South Australia there were 2,410 children and young people under the guardianship of the Minister through care and protection court orders, not counting the 56 on interim or temporary orders.<sup>2</sup> These 2,410 children and young people had the following characteristics:

<b>age</b>	0 to 1	5.7
	2 to 4	15.8
	5 to 9	31.0
	10 to 14	28.4
	15 to 17	19.2
<b>gender</b>	females	45.2
	males	53.0
	unknown	1.8
<b>Aboriginal</b>		24.6
<b>type of order</b>	long term care and protection order	87.6
	12 month care and protection order	12.4

Source: Families SA Data Warehouse

The living arrangements for children and young people in alternative care<sup>3</sup> are as follows.

<b>care arrangements</b>		%
	foster care	44.1
	relative and kinship care	42.0
	emergency and short term accommodation	7.4
	Families SA residential care	4.7
	NGO residential care	1.7
financially assisted adoption	0.2	

Source: Families SA Data Warehouse

<sup>2</sup> The figures provided in time for publication are subject to subsequent adjustment by Families SA.

<sup>3</sup> The following includes children on interim and/or temporary orders, other person guardianship and voluntary custody agreements.

There were 1,044 admissions to youth training centres in 2010-11 of which 39.6 per cent were Aboriginal children and young people and 21.1 per cent were under the guardianship of the Minister at the time of admission.

## Functions and outcomes

The Guardian has six functions defined in Section 52C of the *Children's Protection Act 1993*.

- To promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care
- To act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse
- To monitor the circumstances of children under the guardianship, or in the custody, of the Minister
- To provide advice to the Minister on the quality of the provision of care for children under the guardianship, or in the custody of, the Minister and on whether the children's needs are being met
- To inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care
- To investigate and report to the Minister on matters referred to the Guardian by the Minister

In this section, I report on the work and outcomes of the Office in relation to meeting the statutory functions of the Guardian.

## Promote

Statutory function

To promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care

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### Our goals

**Action is prompt on issues that impact on the safety and wellbeing of children and young people.**

**Effective early intervention services for high need families ensure only those who need state care are taken into care.**

**Responsibility for the safety and well being of children and young people is shared.**

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### *Promote the rights of children in care as expressed in the Charter of Rights*

The *Charter of Rights for Children and Young People in Care* (The Charter) was launched in 2006. In September 2010 the Charter was tabled in parliament, as required in the *Children's Protection Act 1993* Section 52 EE (2). A person exercising functions or powers under relevant laws must, in their dealings with, or in relation to, a child who is under guardianship, or in the custody, of the Minister, seek to implement to the fullest extent possible, the terms of the Charter.

The Office of the Guardian has accepted the responsibility for promoting and monitoring the implementation of the terms of the Charter. At the end of this year, 46 agencies had endorsed the Charter and there were 108 Charter Champions engaged to promote children's rights in their agencies.

In 2010-11 the implementation committee continued to meet, representing the experiences of government and non-government agencies in providing services to children in care. In December 2010 the Office reported its findings of the compliance survey which, in turn, informed the committee about good practice and areas for improvement. In January 2011 the Office commenced developing new materials about rights suited to children with disabilities.

### *Promote and monitor good information sharing among agencies when children are at risk*

In late 2008 the Guardian assumed responsibility for promoting and monitoring the implementation of the *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and Their Families* (ISG). The purpose of the guidelines is to guide workers and agencies in sharing information

appropriately so that services are provided earlier when children, young people and members of their families are at risk. The guidelines help maintain the balance between the right to safety and the right to privacy.

In 2010-11 the ISG steering committee oversaw implementation across five major government departments and a growing number of non-government organisations. The major focus has been on agencies providing services in domestic violence, drug and alcohol addictions, homelessness and mental health.

Negotiations with Australian Government agencies, including the Privacy Commissioner, have seen progress in overcoming legislative and contractual obstacles to fully implementing the guidelines in South Australia, in the first instance, and in other states and territories in the future.

*Engage children and young people in our work through whatever avenue we can*

Core to the purpose of the Office is strengthening the voice of children and young people and modelling their participation in decisions. The Office's youth participation strategy details this undertaking. The Youth Advisors are at the heart of the strategy and provide frequent advice and assistance.

In October 2010 the Youth Advisory Committee met for the first time. Co-chaired by the Guardian and a Youth Advisor, the committee provides advice to the Guardian.

Children and young people were also involved in the 2011 inquiry into children's views and experiences of contact with their siblings, as interviewees and as advisors on methodology and analysis.

A survey of children's experiences of participation in decision making commenced in October 2010 and concluded in June 2011. Over ninety children responded and the results will be included in a forthcoming report on children's wellbeing.

*Through a range of media, share the knowledge we have*

The website is the major source of information about the Office's activities, findings and views and the visitors to the site have increased by over 70 per cent in the reporting year. Quarterly newsletters and more frequent electronic bulletins keep subscribers up to date with news.

On 14 February 2011 the Office started its Twitter stream and by the end of June had attracted 76 followers.

Together with young students from the University of South Australia and Youth Advisors, the Office produced a DVD about young people's views of their social workers, based on the findings of the 2009 inquiry.



## Advocate

Statutory function

To act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse

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### Our goals

**More children and young people in care feel good, are safe and cared for, get help, understand and have a say.**

**Allegations of sexual abuse of children in care are investigated promptly.**

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*Through outreach activity we ensure that children and young people who need individual advocacy receive it.*

Through the 'being in care' products the Office reinforces messages about children's rights and provides information about where to go for assistance. The product range was developed with advice from young people in care and now includes booklets, contact cards, comic books, back-packs, wristbands, tattoos, key-rings, soft toy, stress balls and drink bottles. These products are provided free to children in care and are available to agencies that have endorsed the Charter of Rights. Oog, the creature created for children in care, was again in the Credit Union Christmas Pageant and video footage was posted to You-Tube.

The Office's advocacy for individual children is consciously linked to our advocacy on systemic issues. Trends or repetition of problems are identified and pursued. In 2010-11 the GCYP received 131 requests for intervention on behalf of children and young people. Of these, 111 fell within our mandate, that is, they were requests about children and young people under guardianship, or in the custody, of the Minister.

A single matter sometimes affects more than one child or young person in care. We therefore assisted or advocated on behalf of 168 children and young people. Our intervention ranges from providing information about policies or rights through to a full review of the circumstances of a child with advocacy for change. We reviewed 15 cases, affecting 20 children and young people.

The 111 requests that were within our mandate were made by:

Child or young person	32
Parent / guardian	16
Carer (foster / relative)	15
Families SA	14
Other relative	9

Alternative care agency	9
Health	2
Education	1
Legal	1
Housing	1
Other <sup>4</sup>	11

The presenting issues<sup>5</sup> were:

Care arrangements	48
Lack of appropriate support services	25
Family contact (sibling and parent)	21
Participation in decision making	19
Safety	12
Relationship with social worker	8
Education	7
Staff conduct	7
General health services	6
Mental health services	4
Leaving care arrangements	4
Disability services	4
Identity	4
Other	20

*Through the advice we provide we ensure that what we hear and see results in systemic change.*

Once advice has been provided to the Minister on specific issues [see *Advise*] the Office pursues most matters through advocacy. In 2010-11 the major issues for advocacy were:

- Improvements in conditions for young people residing in Youth Training Centres.
- Closure of the large residential facilities for children.

<sup>4</sup> Those categorised as 'other' identified as advocates for the individual child(ren) for whom they were making contact, and included friends, mentors and former carers.

<sup>5</sup> There is often more than one presenting issue in a request and one issue may affect more than one child. Our reporting is the number of children directly affected by the issue.

- Improvements to behaviour management policy in residential services, including minimising the use of physical restraint.
- Additions to the South Australia's Strategic Plan of more targets for children and young people.
- Improvements to rehabilitation programs provided to residents of the Youth Training Centres.
- Reviewing the responsiveness of mental health services for children in care.
- Reducing the likelihood of young people running away from residential care facilities.
- Child safety and child development policy and practice in immigration detention centres.

In February 2011 the second report summarising the Office's findings from its monitoring work was released. This year the *Report on the Wellbeing of Children and Young People in Care in SA* focused on the themes of safety, education and case workers.

The Guardian is a member of the Australian Children's Commissioners and Guardians network. This year the group has advocated for public policy change in the following areas, among others:

- Medicare Benefit Scheme Primary Care Item for Children in Alternative Care
- National Standards for Out-of-Home Care
- National Children's Commissioner
- Children in Immigration Detention
- Cross Jurisdictional Exchange of Information
- Family Law Amendment (Family Violence) Bill

*Work with the police, public prosecution and special investigations unit to ensure that children involved in investigations of sexual abuse in care have an advocate and that investigations are conducted in a timely manner.*

The Office is notified by the Department for Families and Communities Special Investigation Unit of allegations of sexual abuse of children in care. The role of the Office is to monitor the progress of the investigations and to ensure that the child has an advocate. This is done in cooperation with the Special Investigations Unit, the South Australian Police and the Office of the Director of Public Prosecutions.

In 2010-11, 67 notifications were referred to GCYP for monitoring. In the reporting period, our office received more than one notification for five individual children and young people.

The notifications related to alleged sexual abuse in the following care arrangements:

Foster care (incl. respite)	29
Residential care	22
Relative care	10
Agency care	2
Youth Training Centre	4

### Case study

*'Bethany', 5, was in care for only a short time. Soon after her return to her mother she disclosed sexual abuse by a carer. This allegation will not be prosecuted for "insufficient evidence".*

*The Office of the Guardian was contacted by an alternative care agency to say that no therapeutic service had been arranged for Bethany. On following this up the Office found that everyone had agreed that a mental health service should be engaged but that it had been overlooked. There was a lot going on, particularly with the work required to safely return Bethany to her mother's care and to ensure that this was sustained.*

*By this stage Bethany was displaying erratic behaviour and was struggling in school. An assessment by the mental health service confirmed the urgency of providing therapy but the waiting time was now several months. Through discussion, the Office of the Guardian and Families SA agreed that a private psychologist should be engaged in the interim until a move to the public system could be done carefully and if still required.*

## Monitor

Statutory function

To monitor the circumstances of children under the guardianship, or in the custody, of the Minister

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### Our goals

**Know what is happening for children and young people in care.**

**Identify and promote what is working well.**

**Identify weaknesses in the child protection system.**

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### *Implementation of monitoring framework*

In 2007 we introduced a framework for our monitoring activities so that we could report against standards deemed acceptable by children. There are 12 quality statements based on the rights in the children's charter. In February 2011 we released the second report on the findings of our monitoring work.

### *Monitoring activities*

We undertake the following activities to monitor the circumstances of children and young people in care:

- Receipt of aggregate data available from Families SA
- Audits of annual reviews (12 per cent of children on long term orders)
- Enquiries lodged at the Guardian's Office (7 per cent of children on care and protection orders)
- Visits to residential care and youth training centres (75 visits, approximately 15 per cent of children in alternative care)
- Review of records of safety in youth training centres (twice per annum)
- Consultation with child protection workforce (322 participants)

### *Report on Wellbeing of Children and Young People in Care*

In February 2011 we released the second report on the wellbeing of children and young people in care, which summarised the findings of all the monitoring activities for 2009-10 in three areas only: safety, education and case worker service.

The Office concluded that:

- Most children in care are safe. There is mounting evidence though in reports of care concerns and missing person reports that the large residential facilities, accommodating up to 12 young residents, are unsuitable for children with high needs.
- Feedback from young people in residential care suggests that most have good relationships with their workers and enjoy regular contact. The case file evidence though points to a fall in frequency of face to face contact.
- The rate of attendance at school is good for children in care and most have Individual Education Plans if they are in government schools.
- Annual review evidence suggests that participation in sport and recreation is low at only one in four.
- The vast majority of Aboriginal children have information about their cultural heritage and engage in cultural activities.

#### *Aggregate data*

Aggregate data is primarily sourced through and with the cooperation of Families SA. The most current and all-purpose data is available from the Guardian's website. Notable changes are:

- The numbers of children on 12 month and long term care and protection orders has risen from 1,791 in June 2007 to 2,410 in June 2011, an increase of 34.6 per cent. In the 12 months of 2010-11 the increase was 4.7 per cent, significantly lower than the 9.1 per cent and 8.7 per cent of the preceding two years.
- The number of children 0-17 years on care and protection orders has grown from 4.8 per thousand in June 2006 to 7.1 per thousand in June 2010, the latest figures available.
- The proportion of children and young people in alternative care who are in family-based care has remained steady at around 86 per cent in the last four years but the proportion of those who are in relative/kinship care has increased from 37.7 per cent to 48.7 per cent in the same period.<sup>6</sup>
- The proportion of Aboriginal children placed with Aboriginal and Torres Strait Islander relatives, in Aboriginal residential care and with Aboriginal foster carers remains about the same as last year at 71 per cent. However, the proportion placed with non-relative Aboriginal and Torres Strait Islander carers continues to decline from 33.6 per cent in June 2007 to 17.1 per cent in June 2011.

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<sup>6</sup> Comparable Families SA data for June 2007 is not available due to a change in counting rules.

- The total number of admissions of children and young people to youth training centres increased from 1,013 in 2009-10 to 1,044 in 2010-11. The rate of average daily occupancy remained almost the same in 2010-11 as last year at 69.4 young people.
- The number of children and young people in interim emergency accommodation (motel and bed and breakfast style accommodation) has declined from 3.7 per cent at June 2007, with a high of 3.8 per cent at June 2008, to 2.1 per cent at June 2011.

#### *Children in motel-type accommodation*

We began monitoring the numbers of children in motel-type emergency accommodation in February 2005 when the number was only ten children. In January 2006 we made seven recommendations to Families SA for improving the quality of care to children accommodated in motels. A progress report was written in January 2007 which concluded that the major issues about quality of care had been addressed but that, due to the lack of alternative placements, the numbers of children had increased. An emergency accommodation strategy was introduced in mid-2006 and has had a steadying impact on growth in numbers. However in 2009 the numbers crept up again to 87 children.

In 2010-11, the highest number at any one time was 66 which occurred in mid-August 2010. At the end 2010-11 the number was 54. This is in the context of a five per cent rise in the number of children in care this year. At 30 June 2011, 45 children had had stays of over 60 days compared with 29 children in June 2010.<sup>7</sup>

#### *Audits of annual reviews*

The Senior Advocate audited 246 annual reviews at 16 Families SA offices. Some offices scheduled regular reviews and were visited on more than one occasion. Annual reviews are conducted for children and young people placed under long-term guardianship orders. The Office audited 12 per cent of reviews that were to be conducted, up from 10.8 per cent in 2009-10.

A report on the audit is provided to the Minister annually. The major findings for 2010-11 were:

- Placement instability is increasing, resulting in greater numbers of long-term placements at risk and more short-term, temporary and inappropriate placements.
- Nine out of ten children and young people whose cases were reviewed had at least one significant adult in their life.

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<sup>7</sup> These numbers may vary slightly from that discussed in *Aggregate data* above due to variations in counting methodology.

- Nine out of ten children and young people whose cases were reviewed were receiving services to meet their needs.
- Four out of five eligible children and young people had current Individual Education Plans.
- One out of three adolescents approaching adulthood, and the expiration of their guardianship order, did not have a transitioning from care plan to coordinate and facilitate actions and services.
- One in three children and young people had received, and are developing, a Life Story Book.
- There is considerable work to be done to ensure the active participation of children and young people in decisions and in the annual review, as well as the inclusion of others significant to the child in decision-making.

In 2011-12 we will continue to focus on the participation of children and young people, the inclusion of others in decision-making, the nurturing of cultural identity and connections for Aboriginal children and young people, and promoting consistent good practice across Families SA.

#### *Visits to residents of residential care and youth training centres*

There are 42 residential care properties provided by Families SA and non-government organisations for children and young people under the guardianship or custody of the Minister for Families and Communities. This is up from the 35 properties in the previous year. In 2010-11 the GCYP Advocates conducted 54 visits to residential facilities to meet and talk with the residents and staff. Written feedback is provided promptly to the relevant manager and any specific concerns have been quickly responded to.

In 2010-11 the Advocates conducted 21 visits to residents in different units within Magill and Cavan Youth Training Centres. Written feedback is provided promptly to the relevant manager and in all but a few cases any specific concerns have been quickly attended to.



*Review of records of safety in the youth training centres*

Twice a year the Office visits the two youth training centres for the purpose of reviewing their records that relate to the physical safety of residents. As a result of the reviewing and reporting process the following changes have been made in the past year:

- Staff training has significantly improved with the addition of relationship-based training and learning about children with special needs.
- Behaviour management training is being thoroughly reviewed in response to the Guardian's 2010 inquiry into the use of physical restraint. In the meantime restraint training by the SA Police has been suspended.
- The quality of incident reporting continues to improve with attention to detail, more thorough witness reports and residents' comments.
- A new risk assessment procedure was introduced in 2009 to respond in a more timely way to residents at high risk of harm. This has been received well by staff and residents.
- The personal search procedure was amended to ensure a more dignified search is used on every occasion.
- The complaints system, introduced in 2006, continues to work well and complaints were responded to appropriately.
- The timeliness of completing investigations of allegations of abuse or deficit in care has improved.
- Anti-bullying activity and promotion has commenced in one of the centres.

*Field consultation*

From February to May 2011 the Guardian conducted the sixth consultation with agencies and workers directly involved in the provision of services to children and young people in care. The purpose was to hear from professional workers their views on how well the care system works for children and young people. Thirty-five workshops were held with 322 participants.

The findings included:

- Most children in care are safe but there was concern about the small number of young people who run away from placements. There was relief that some protection was now offered in the recent creation of a criminal offence for harbouring children.
- Social workers and carers are grappling with the additional safety risks associated with the use of Facebook.

- Amidst steady growth in the numbers of children requiring alternative care, it remains a struggle to find family-based care, resulting in steady growth in the use of emergency and residential care.
- The use of Individual Education Plans was widely acknowledged as facilitating good relationships between educators and case workers. There was a view though that younger children were being excluded or suspended from school more often now.
- The Rapid Response commitment to providing priority access to public services continues to benefit children under guardianship in many ways. However, there is stark difference in timeliness of services between country and city locations.

### Case study

*'Alexia', 12, had been in emergency care for four months. This was not her first admission to state care. Alexia had attended the same northern suburbs school for two years and had been travelling there from her temporary home in the eastern suburbs. She was reported to display behaviours consistent with childhood trauma.*

*Late on a weekday afternoon, Alexia's social worker rang to say Alexia would be moving to residential care in the outer southern suburbs the following day. The emergency placement was cancelled.*

*Next day Alexia ran away. She left a note for the social worker saying she did not want to move so far from school. The carer rang the Office of the Guardian because he felt that no one was listening to Alexia.*

*Families SA responded quickly and found Alexia within two days. They readily acknowledged that it was likely that Alexia was fearful and anxious about the move and agreed that an alternative placement would be sought. Alexia would be given the opportunity to visit before moving in.*

## Advise

Statutory function

To provide advice to the Minister on the quality of the provision of care for children under the guardianship, or in the custody of, the Minister and on whether the children's needs are being met.

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### Our goals

**Advice results in action on critical issues for groups of children and young people.**

**The Minister and others have confidence in the advice provided.**

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### *Advice and inquiry*

In 2010-11 one major inquiry was conducted and advice will be provided to the Minister as a result of this. This is reported in the following section, *Inquire*.

Other advice provided and reported on elsewhere in this annual report is:

- Report on the wellbeing of children and young people in care (see p 17)
- Review of safety records in youth training centres (see p 20)
- Audit of annual reviews (see p 21)
- 2011 field consultation (see p 21)

### *Residential care*

In 2005 I first drew attention to the unsafe conditions for children accommodated in the six large residential facilities. These facilities house up to 12 young residents, most with high needs. Experience and evidence about residential care tells us that the risk of harm is higher when staff have only limited control over the 'mix' of residents and when a resident's high needs can make peer relationships threatening or hostile. In larger residential facilities these risks are hard to avoid. In 2007 I was greatly disappointed that the government decided to build two additional 12-bed facilities. In 2010 the first of these opened. In June 2011 the government announced their intention to build two more. This is contrary to all evidence about good and safe residential care.

My advice to the Minister since 2005 has consistently been to replace the large facilities with smaller home-like residential care. The evidence from our monitoring of conditions in residential care confirms the unsuitability of housing so many children in a single facility.

In 2007 the Office conducted a limited inquiry into the issue of children missing from residential care. Following agreement with Families SA on strategies to

better address their needs, three progress reports have been prepared for the Minister, the last one provided in November 2010.

*Information sharing and national privacy principles*

Advice was provided to the Minister on the inconsistencies between the state government's requirement for information sharing when children are at risk and the National Privacy Principles in the *Privacy Act 1988*. These inconsistencies affect non-government organisations that have contracts with both the state and Commonwealth governments. Significant changes to the Act are expected within the next few years and one of these amendments would address this inconsistency by removing the test of *imminent* harm when disclosing information about a person without their consent. In the meantime the Office has worked with Commonwealth agencies to attempt to resolve the issue for South Australian organisations.

*Community visitors for children in state care*

Visiting by an independent person whose sole interest is what is happening to the child and the child's views is a safeguard against oversight, abuse, mistreatment and silencing. In August 2010 the Guardian provided the Minister with advice on what may best suit the circumstances in South Australia. The advice was the conclusion of background research on other visitor programs, a round table discussion with local experts and consultation with the Guardian's Youth Advisors. The report was made public the same month.

*Review of performance and effectiveness*

In April 2010 the Guardian commissioned an independent review of the performance and effectiveness of the Office of the Guardian. The purpose was to assess performance and impact since the appointment of the Guardian in 2004 and to determine priority activities in the immediate future. The report was provided to the Minister in September 2010 and released as a public document the same month.

*Children and the SA Strategic Plan*

The 2010 update of South Australia's Strategic Plan was an opportunity to pay more attention to children and specifically to children in state care. The Office contributed to the consultation and prepared a written submission with a proposed target and measures. This advice was also provided to the Minister in September 2010.

*Compliance with children's rights*

The *Children's Protection Act 1993* requires relevant agencies to implement the *Charter of Rights for Children and Young People in Care* to the fullest extent possible. In 2010, agencies were asked to respond to a survey about implementation. Of the 28 responses received, 16 per cent reported that the Charter had been fully implemented and 24 per cent that it had been mostly implemented. There is strong support for the Charter, evident in policies and procedures, staff induction and training. The results were provided to the Minister in December 2010 and the report released the same month.

*Commonwealth Commissioner for Children*

In September 2010, Greens Senator Sarah Hanson-Young introduced the *Commonwealth Commissioner for Children and Young People Bill* and the Senate referred the Bill for inquiry and report. Following a submission by the Australian Children's Commissioners and Guardians (ACCG), I provided advice to the Minister in December 2010 about ACCG support for a national rights-based advocate for children and young people. There was potential for duplication though in some parts of the proposed responsibilities. I reiterated earlier advice about gaps in advice and advocacy in South Australia because of the absence of a state Children's Commissioner with a broader mandate, powers and functions.

*Family law amendments*

Following an extensive review of the operation of the family law system, in late 2010 the *Family Law Amendment (Family Violence) Bill – Exposure Draft* was released for public comment. ACCG prepared a joint response and advice was provided to the Minister on the major points. Overall the response sought to better enable courts and legal representatives to hear children's voices in family law disputes, and in a manner that protects them from parental conflict and from feeling responsible for the outcome.

*Medicare Benefits Schedule and children in alternative care*

In January 2011, advice was provided to the Minister on the need for the Commonwealth Government to extend the Medicare Benefits Schedule Item 707, which provides a rebate for a prolonged health assessment, to all children in alternative care. This advice followed a letter from the ACCG to the Commonwealth Minister for Health.

*Use of physical restraint in residential facilities*

The 2009 Guardian's Inquiry, *Policy and Practice in the Use of Physical Restraint in SA Residential Facilities for Children and Young People*, concluded with five recommendations. Four of the recommendations were accepted for implementation. Annual progress reports on implementation have been prepared and provided as advice to the Minister. The second of these was provided in February 2011. In summary, Families SA has commenced work on new behaviour management procedures which are due for completion in late 2011 and reports on trends in use of restraint will be considered by the Families SA executive management on a regular basis, commencing in 2012. In the meantime, the training provided to staff in the youth training centres on use of force will be replaced by training in non-violent crisis intervention.

**Case study**

*'Corey', 14, had lived in residential care for about two years. His kinship group is Pitjantjatjara. During a visit to the unit by the Office of the Guardian, Corey said that he missed his family and had 'not seen them for a long time'. His residential care plan documents that he felt 'very detached from not only his family, but also his land and people'. Family contact had been arranged but was often cancelled because his family would not travel far. On one occasion Corey had refused to go because he said that the time with his family was too short to make the trip worthwhile.*

*Corey had heightened anxiety and appeared emotional and angry. His case worker was four hours drive away and could rarely visit. Corey said he wanted to move closer to his family. At Corey's request and with advice from an Aboriginal consultant, an advocate from the Office of the Guardian attended a review meeting to represent his views. The outcome was a renewed focus on his Aboriginal identity, agreement to look for a placement nearer family and a more detailed family contact plan.*

*Children in immigration detention*

Together with the Chair of the Council for the Care of Children Dr Diana Hetzel, the Guardian visited Inverbrackie Alternative Place of Detention to consider the conditions for children and young people. Subsequent to the visit on 24 June, a report was provided to the Minister's office. A letter was also sent to the Minister for Immigration and Citizenship

*Contributions to policy development*

In addition to the advice to the Minister we provide our view to others on policies that affect vulnerable children or children in care. In this past year we have provided written comment on:

- Health and Community Services Charter of Rights
- Directions for Alternative Care in South Australia
- South Australia's Youth Strategy, *youthconnect*
- National Standards for Out-of-Home Care
- Practice Guide: Death of a Child or Young Person under the Custody or Guardianship of the Minister
- Cyber safety

## Inquire

Statutory function

To inquire into, and provide advice to the Minister in relation to, systemic reform necessary to improve the quality of care provided for children in alternative care

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### Our goal

**Inquiries result in systemic reform that is long-standing.**

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*What children say about contact with their siblings and the impact sibling contact has on wellbeing*

The 2011 inquiry will examine the impact of sibling co-location and of regular and irregular contact between siblings when children are in state care. In particular the inquiry will explore what children say about their experience of their relationships with siblings, what constitutes good contact and what the experience is, as evidenced in case files.

As at the end of June 2011, case file evidence had been taken from a hundred files and interviews conducted with 18 children and young people. The reference group has considered the findings and a report on the inquiry will be provided to the Minister in November 2011.



## Investigate

Statutory function

To investigate and report to the Minister on matters referred to the Guardian by the Minister

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### Our goal

**Investigations result in practical recommendations that are acted on.**

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No matters were referred to the Guardian by the Minister.

## Our organisation

### Legislation

The position of Guardian for Children and Young Persons was established in an amendment to the *Children's Protection Act 1993* (the Act) proclaimed on 1 February 2006. Further amendments made in late 2009 strengthened the independence and powers of the position.

### Governance

Under the Act, the Guardian is appointed by the Governor. The Guardian has statutory functions and reporting requirements which are discussed elsewhere in this report. The functions are broadly those of monitoring conditions of care, investigating matters of concern and advocating for children and young people under guardianship or in the custody of the Minister. The Guardian provides advice to the Minister for Families and Communities on these matters.

The Guardian also has non-statutory responsibility for promoting and monitoring the use of the *Information Sharing Guidelines for promoting the safety and wellbeing of children, young people and their families*.

The Guardian is not subject to directions from the Minister which inhibit inquiries or investigations, prevent or restrict communications or which limit the content of advice, reports or recommendations made in fulfilling the statutory functions.

The Guardian has powers necessary, expedient or incidental to the performance of the Guardian's functions. The Act explicitly gives the Guardian the power to require information from organisations and people that is necessary to fulfilling the Guardian's functions.

As at 1 January 2010 the Guardian must establish and maintain a Youth Advisory Committee. The Committee's primary function is to assist the Guardian in the performance of the Guardian's functions by ensuring that the Guardian is aware of the experiences of, and receives advice from, children who are, or have been, under the guardianship or in the custody of the Minister.

The Guardian makes frequent use of other consultative bodies to inform projects and develop advice and recommendations but these have no formal governance role.

### **Location**

The Office of the Guardian for Children and Young People is located at Level 4, East, 50 Grenfell Street, Adelaide.

The office hours are Monday to Friday 9am to 5pm.

### **Access**

The office at Level 4 East, 50 Grenfell Street, has been designed for wheelchair access and, within workplace imperatives, for children.

The Guardian's website is built on a self hosted Wordpress platform which is compliant with the World Wide Web Consortium's web content accessibility guidelines.

### **Complaints**

The grievances and complaints policy is available from the website and is provided when someone complains about the service.

There have been no formal complaints made to the Office about the service in 2010-11.

### **Energy management**

The Office of the Guardian has participated in the Department for Families and Communities energy efficiency and waste reduction program. In compliance with this program all waste paper is recycled, rubbish is sorted for recycling and power standby features are engaged. The Office uses a fuel-efficient hybrid vehicle.

### **Freedom of information**

Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no requests for other information during 2010-11.

### **Strategic and organisational planning**

In 2010 the Guardian commissioned an independent review of the performance and effectiveness of the Office of the Guardian.

In June 2011 a strategic plan for 2011-15 was completed.

### Employee numbers, gender and status

Total number of employees (including Guardian) at June 30 2011	
Persons	7.0
FTEs	6.0

Gender	% Persons	% FTEs
Male	25	14.3
Female	75	85.7

Number of persons during 2010-11	
Separated from agency	1
Recruited to agency	1

Number of persons at 30 June 2011	
On Leave Without Pay	1

Number of employees by salary bracket at June 30 2011			
Salary bracket	Male	Female	Total
\$0 - \$50,399			
\$50,400 - \$64,099	1	1	2
\$64,100 - \$82,099		2	2
\$82,100 - \$103,599		2	2
\$103,600+		1	1
Total	1	6	7

Status of employees in current position at June 30 2011					
Persons	Ongoing	Short term	Long term	Other	Total
Male	1				1
Female	4	1	1		6
Total	5	1	1		7

Executives by gender, classification and status in current position								
Classification	Ongoing		Term Tenured		Term Untenured		Totals	
	M	F	M	F	M	F	M	F
EXA						1		1
Total						1		1

**Workforce diversity**

Number of employees by age bracket by gender at June 30 2011					
Age bracket	Male	Female	Total	% of Total	Workforce benchmark (%)
15-19					6.1
20-24					10.6
25-29					10.5
30-34		1	1	14.3	9.4
35-39		3	3	42.9	11.2
40-44					11.1
45-49					12.2
50-54		2	2	28.6	11.0
55-59					9.2
60-64	1		1	14.3	6.0
65 +					2.9
Total	1	6	7	100.0	100.0

Aboriginal and/or Torres Strait Islander employees at June 30 2011				
Male	Female	Total	% of Total	Workforce benchmark (%)
0	0	0	0	2

Cultural and linguistic diversity					
	Male	Female	Total	% of agency	SA community (%)
Number of employees born overseas	1		1	14.3	20.3
Number of employees who speak languages other than English at home				0	16.6

Employees with ongoing disabilities requiring workplace adaptation			
Male	Female	Total	% of agency
0	0	0	0

### Leave management

Average days leave taken per full time equivalent employee	
Leave type	2010-11
sick leave	6.84
family carer's leave	2.0
miscellaneous special leave	1.4

Employees using voluntary flexible working arrangements by gender at 30 June 2011			
	Male	Female	Total
purchased leave			
flexitime	1	5	6
compressed weeks			
part time job share			
working from home			

### Performance development

Documented review of individual performance development plan	
Employees with ...	% total workforce
a review within the past 12 months	100
a review older than 12 months	
no review	

### Consultants

There were no consultants engaged by the office during 2010-11.

### Occupational health, safety and injury management

In 2010-11 there were no incidents resulting in workplace injury.

## **Financial**

### *Income*

The source of income for the Office is an allocation of \$814K made for the child protection reform program and the Information Sharing Guidelines and administered through the Department for Families and Communities. A contribution of \$31K towards the cost of developing children's rights materials to children with disabilities was received from Lyreco. Total income for the year was \$845K.

### *Expenditure*

Financial services are provided by the Department for Families and Communities. The financial operations of this Office are consolidated into and audited through the Department. Accordingly, full financial reports are not provided as part of this annual report. A financial summary of expenditure is provided below.

<b>Item</b>	<b>Actual Expenditure '000</b>
Salaries and wages	633
Goods and services	222
<b>Total</b>	<b>855</b>

The net operating result was a deficit of \$10K.

## **The staff team**

During the 2010-11 financial year, eight paid staff members and six unpaid Youth Advisors worked in the Office.

### *Guardian*

Pam Simmons

The Guardian is responsible for meeting the statutory functions of the position and reporting on these, including the circumstances of children and young people in custody or guardianship of the Minister and improvements to the system of care.

Pam was first appointed to the position of Guardian in June 2004 and reappointed in December 2010. She has 25 years work experience as an advocate for social justice and change in Australia and overseas.

*Office Administrator*

Yvette Roberts

Yvette is responsible for the day to day running of the office as well as undertaking other tasks contributing directly to the Office's work.

Yvette has had a wide range of experience in administration including three years in aged care prior to joining the Office in January 2006.

*Project Officer - Communications*

Malcolm Downes

Malcolm researches and writes materials for publications, edits and designs materials for electronic and paper communications, collects and maintains statistical information, monitors the implementation of the Monitoring Framework and provides ad hoc support and services to Office staff on communications and information matters.

*Senior Policy Officer*

Kendall Crowe

Kendall conducts research and consultations and prepares policy papers and reports for the Guardian. She has nearly ten years experience in the public sector in South Australia and interstate, working predominantly in immigration and child protection policy.

*Senior Advocate*

Amanda Shaw

The Senior Advocate leads the advocacy team, audits annual reviews of children and young people under guardianship and supports the involvement of the Youth Advisors in the work of the Office.

Amanda has spent ten years working in the youth and community services sectors in Australia and Canada and she has a passion for youth issues.

*Advocates*

Belinda Lorek

Belinda is an advocate who investigates individual matters, visits children in residential care and manages some projects. She has experience in a variety of sectors undertaking different roles in counselling, group work, case management, advocacy and case work.

Gino Iuliano (to March 2011)

Gino is an advocate with special interest and skills in Aboriginal issues. He has worked for 18 years in Aboriginal child protection and the alternative care system in the government and non-government sectors. Gino is a Kaurna and Narunga man through his mother and identifies strongly with both of these communities. In March 2011 he left GCYP to commence work with Families SA.



*Principal Advisor – Information Sharing*

Donna Mayhew

Donna oversees the implementation and monitors application of the state wide *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families*. Previously, she has led a number of public policy development and change management activities, including transport, economic development, education, mental health and social inclusion.

*Youth Advisors*

The Youth Advisors work with staff to provide advice, suggestions and guidance on matters that affect children and young people under the guardianship or in the custody of the Minister. The role is designed to ensure that the voice and experience of young people who have been in the care system are incorporated wherever possible in any projects or activities undertaken by the Office.

Mellita Kimber

Mellita is Consumer Adviser at the Royal Adelaide Hospital. As well as assisting the Office of the Guardian, in 2010-11 she served on the Council for the Care of Children and on the Board of the Dame Roma Mitchell Trust Fund.

David Wilkins

David assists the Office on a part time basis. He currently works for the Commonwealth Government and is a student of law. He has a first degree in international studies.

Eduard King (to January 2011)

Eduard has recently made the transition into independent living. In his own words, 'I want to use this role to encourage young people in care to have a voice and to make sure that their voice gets heard in the places that matter.' Eduard moved to Brisbane in early 2011.

Sara Bann

Sara works for the Department of Environment and Natural Resources in the South Australian Government and continues to contribute her knowledge of the issues facing young people in the care system. Sara was the 2010 Channel 9 SA Young Achiever and she is co-Chair of the Guardian's Youth Advisory Committee.

Benita Brinkworth

Benita has been under guardianship since she was eight years old. She joins us after a long association with CREATE including completing the Mission:Be program. She is particularly interested in Spanish, travel and the arts including photography, music and drawing.

Thomas Manning (from January 2011)

After a period of involvement with CREATE and YACSA, Thomas now volunteers for World Vision and Meals on Wheels. He is majoring in English and Economics and possibly migrating to Law in the future. Thomas came into guardianship at age 12 and has had several placements including a period of living independently. He enjoys sailing, reading and drinking Earl Grey tea.

### **Membership of external committees**

- Australian Children's Commissioners and Guardians - Pam Simmons, Guardian
- Across Government Guardianship Steering Committee - Pam Simmons, Guardian
- National Framework for Child Protection SA Partnership Group – Pam Simmons, Guardian

### **Learning and development**

- Child Safe Environments
- Introduction to Cultural Identity Tools
- Diploma in Project Management
- Clinical Supervision
- Adult Mental Illness and Child Protection