

Annual Report

2014-2015



Government of South Australia

Office of the Guardian
for Children and Young People

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Office of the Guardian for Children and Young People

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The Hon. Susan Close, MP
Minister for Education and Child Development
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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 2015, 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 2014-15 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, looped initial "P".

Pam Simmons
Guardian

30 September 2015

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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 Education and Child Development.

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 Education and Child Development.

Functions

The Guardian has six statutory functions:

- Promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care.
- 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.
- Monitor the circumstances of children under the guardianship, or in the custody, of the Minister.
- 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.
- 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.
- Investigate and report to the Minister on matters referred to the Guardian by the Minister.

I report against these functions in this annual report.

At the Office of the Guardian...

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.

Who we work for

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

As at 30 June 2015 in South Australia there were 2690 children and young people under the guardianship of the Minister through care and protection court orders, (not counting the 77 on interim or temporary orders). They had the following characteristics:

Children and young people under the guardianship of the Minister through care and protection court orders at 30 June 2015	
	%
Male	51
Female	49
0-1 years	6
2-4 years	14
5-9 years	32
10-14 years	32
15-17 years	16
Aboriginal or Torres Strait Islander	29
long-term care and protection orders	85
12 month care and protection orders	15

The living arrangements for children and young people under guardianship are as follows:

Care arrangements for children and young people in out of home care ¹ at 30 June 2014 (AIHW counting rules)	
	%
Foster care	42
Relative or kinship care (incl specific child only)	44
Residential care (incl emergency care)	13
Independent living	1

¹The numbers of children and young people under the guardianship of the Minister and those defined as in out of home care under AIHW rules refer to similar but not identical populations. The 2015 data becomes available in June 2016.

The year in review

The seven in every thousand South Australian children who require 'state' parenting are the test of the state's resolve to create opportunity for its people. The responsibilities are huge and the need for state guardianship growing. **In the past year the growth has been 4.4 per cent and more than 70 per cent over ten years.**

We, as a broad community, represented by our government, have special responsibility for children in 'state' care but the state is not a good parent. It is not, of course, a parent. In the eyes of children, parents are the adults for whom their children are special, loved and cherished, nurtured and guided, indulged and corrected. The 'state' as a whole cannot do this. The state can provide for the physical needs of a child but not the emotional needs which rely on meaningful relationships.

Regardless, the state has accepted the job of parenting on the community's behalf and must ensure that each child is parented well. The obligations are spelled out in the children's charter of rights, specific to children and young people under guardianship of the Minister.

Among many other things, we expect parents to make sound decisions on behalf of their children but involve them in decision-making. We expect parents to create certainty and

stability wherever possible and to build and nurture their children's positive identity and sense of belonging. We also expect that they will put children's interests before their own.

Part of my role is to monitor how well the 'state' looks after the children for whom it has sought, and accepted, responsibility. In so many different and sometimes difficult circumstances, most children are well provided for and receive good care. However, the 'state' can do much better and must.

Children need certainty and stability

Too many children move too often with the consequent changes in home, rules, schools and friends. In this year's audit of the annual reviews of a child's circumstances, seven out of every ten children were in long-term stable placements. We are worried though about the three in every ten who do not have stability.

Among that number are children in interim arrangements, in rented premises and rotating carers on eight hour shifts. The number of these children has ballooned this year. The average number on any one night is now at 84 compared to 50 in the recent past.

Something is seriously wrong. It is not likely to be one cause but several. We lack families who are able and capable to take another child and we lack specialist care placements for children who have high needs. Some of the use of interim care is driven by the need to keep groups of siblings together while long term arrangements are made. The answer is not to expand residential (non-family based) care, which is usually a poor option for children. South Australia already has double the proportion of children in residential care compared to most other states.

There are several short term steps to take, which I have noted in my report on interim emergency care released in February. **The long-term solution is sound planning in out of home care.** Joint planning and strategy across government and non-government agencies, commencing with discussion of values, shared direction and purpose is frequently called for by people working in out of home care. A comprehensive strategy that incorporates joint planning is long overdue.

Children need identity and belonging

Knowing who you are and where you belong is critical to all children's wellbeing. For Aboriginal children separated from their immediate family, knowing about and connecting to their Aboriginal community is particularly significant. Almost one in three children in state care identifies as Aboriginal or Torres Strait Islander. Our audit of the circumstances of children showed that 72 per cent of Aboriginal children were placed with extended family, who may not be Aboriginal, or with Aboriginal carers. In only 64 per cent of cases was there evidence of knowledge about the child's specific cultural heritage, such as their clan group or language. For the more than one in every three Aboriginal children who did not know their clan group, the prospect of connection and belonging is significantly impaired.

Children need to know what is going on and have influence

In the consultations with children and young people my Office has done this past year a consistent theme, regardless of the topic, was their desire for more involvement in the decisions made about them. While adults have the responsibility for making major decisions on behalf of children, the authority is rarely absolute because these decisions have to take into account the views of the child.

It is difficult to balance enabling a child to make or influence a decision and protecting them from too much responsibility or information, but the worst position to take is to exclude them altogether.

The audits of annual reviews undertaken by my Office this year demonstrate two things about children's inclusion in decision making. First, that some workers and offices do this very well, and second, that the practice is not widespread. **Over the past five years, of children who were of an age to provide their views, the proportion who were asked for their views when their circumstances were being examined has stuck at only two out of every five.**

Better decisions, confidence in decisions, and more trusting relationships with children and others, all stem from including children in decision-making. When it is not possible or desirable for some decisions to be made by children it is invariably possible that children can make associated decisions. They need to know that their views have been considered.

Children's interests are paramount

The challenge for decision-makers, who are not the parent, but who must decide in the best interests of the child, is that they work within and are required to defend a most imperfect service system. As they struggle to create what a child needs from pieces that do not fit well together, we see the consequences, such as siblings being split up so that some can have the chance to live with a family or a child languishing in a desolate foster care arrangement for want of a better option.

Many of the weaknesses in child protection and out of home care stem back decades to decisions about limiting expenditure. Child protection bears the inglorious label of 'welfare' which is often characterised now as charity or residual spending, that is, providing the minimum necessary and only what is not needed for more splendid business.

South Australia spends less (per child) than most other states and territories on child protection services and intensive family services but more on out of home care, largely driven by the high cost of emergency and residential care. The overall budget constraints are real but the way the budget is spent represents a clear choice. **Successive governments have chosen to provide for the barest model in child welfare.**

People working with and caring for children in care face the pit-fall of lowering their expectations of what can be provided to match their understanding of what is available. Decisions have to take into account the likelihood of resources being available but we should never constrain our thinking before we expand. We must start with what is good and look for everything to make it happen. The compromise of 'good enough' or 'best we can do' is just a compromise, not the end.

Our aspirations for children in state care should be high. When the reality does not match, we plan for how it can, without blame or arrogance, but with purpose and intent. Every child deserves no less.

On behalf of the team at the Office of the Guardian, I thank everyone we have worked with over the past year for their cooperation and goodwill. Any progress reported here is testament to children's, workers' and carers' resolve.

In 2014-15 the Office of the Guardian

- Worked with 42 children and young people to learn what 'respect' means to them, resulting in a picture book for children.
- Produced a video of young Aboriginal people giving their views on the significance to them of community and culture and the worries of being separated from family.
- Commenced a review by children and young people of their Charter of Rights.
- Extended the network of advocates for children's rights to 296 Charter (of Rights) Champions, across 67 agencies.
- Responded to 129 requests for intervention, involving 171 children and young people in care. Of these requests, 32 per cent were from children and young people themselves.
- Audited 203 annual reviews of the circumstances of children under long term guardianship of the Minister, (9 per cent of this group of children).
- Visited children and young people living in residential care or youth justice detention in 30 announced visits.
- Growing number of subscribers and followers of the Office's news and information.
- Reported on trends in school enrolment, attendance and literacy and numeracy skills from 2007-2014 for students under guardianship compared to their age peers.
- Reported on trends for Aboriginal children who are subjects of care and protection orders.

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

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 wellbeing of children and young people is shared.

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 the responsibility for promoting and monitoring the implementation of the terms of the Charter. At the end of this year, 67 agencies had endorsed the Charter, an increase of two agencies from 2014. There were 296 Charter Champions engaged to promote children's rights in their agencies, an increase of 30 from the year before.

In 2014-15, the implementation committee continued to meet, representing the experiences of government and non-government agencies in providing services to children in care. The major topics of discussion were services and support to children with disabilities, youth justice, child protection reform and access to education.

The Charter is required to be reviewed at least once every five years. The review is underway.

A Charter of Rights for Children and Young People Detained in Youth Justice Facilities is being introduced to staff and residents of the Adelaide Youth Training Centre.

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 principal theme for the workshops with children and young people in 2014 was 'what respect means to children and young people'. A booklet was released in 2015 with the views of the young people and using their artwork. In 2015 children are reviewing the Charter of Rights.

The Office, together with the Create Foundation and the Royal Commission Child Protection Systems, organised a consultation workshop with 35 young participants to talk about their views on the child protection system.

Young people have been engaged in the development of a video on the significance of culture to Aboriginal children. The monitoring visits to residential and youth justice detention units also engage young people in talking about their views on the care provided.

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. Viewer numbers have been steady over the year at about 900 a month. Quarterly newsletters and more frequent electronic bulletins keep the 967 subscribers up to date with news, an increase of 11 per cent in subscribers from 2014.

The Office's Twitter stream has 448 followers, a 24 per cent increase from the 2014 year. In this past year a video on Aboriginal children's views about being in care and culture was produced and a colourful booklet for children and young people on the topic of 'respect'.

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

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.

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, flash cards, back-packs, wristbands, tattoos, key-rings, a soft toy, stress balls, drink bottles, bucket hats and scribble pads with crayons. 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 to represent the right to be safe, was again in the Credit Unions' Christmas Pageant.

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 2014-15 the Office of the Guardian received 164 requests for intervention on behalf of children and young people. Of these, 129 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 171 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 23 cases, with an additional nine cases carried over from 2013-14.

The 129 requests that were within our mandate were initiated by:

Child or young person	41	32%
Adult in child's life (carer, parent, other relative)	28	22%
Families SA	22	17%
Health	9	7%
Youth Justice	6	5%
Other	23	17%

The presenting issues² were in the categories of:

Stable and secure placement	55
Participation in decision making	32
Safety	23
Contact with significant others	19
Access to health and disability services	11
Understanding circumstances	10
Nurturing environment	9
Education	8
Relationship with social worker	3
Other	5

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 2014-15 the major issues for advocacy were:

- Child protection system reform, particularly for renewed emphasis on family support services and across-government planning.
- Improvements in educational outcomes for children under guardianship.
- Halting the use of residential facilities which accommodate more than four young people.

² There is often more than one presenting issue in a request and one issue may affect more than one child. Therefore the total is greater than the number of requests.

- Improvements in conditions for young people residing in youth training centres and residential care.
- Reducing the reliance on temporary rented properties and agency staff to care for children.
- Improved out of home care planning.

Four reports on what the Office learnt from its monitoring work were released this year.

The first was a report on the audits of annual reviews for children who are under long term care and protection orders and the second and third were about children and young people in residential care. The fourth was a report on children in interim emergency care.

The Guardian is a member of the Australian Children's Commissioners and Guardians network. In 2014-15 the major topics for discussion were the National Framework for Protecting Australia's children, overseas surrogacy, professional foster care, the implementation of a charter of rights in youth justice detention facilities and the Royal Commission into Institutional Responses to Child Sexual Abuse.

Work with the police, public prosecution and investigations units 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 Departments'³ Care Concern Investigations units of allegations of serious 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 Care Concerns units, the South Australian Police and the Office of the Director of Public Prosecutions.

In 2014-15, 34 notifications categorised as serious were referred to GCYP for monitoring. In addition GCYP monitored 22 investigations that were ongoing from previous years.

³ The Departments are: Department for Education and Child Development and Department for Communities and Social Inclusion.

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

Foster care	13
Residential care	12
Relative care	7
Commercial care	2

'Zara', 14, emailed the Office of the Guardian (GCYP) and reported that she had been mistreated in her placement. An Advocate phoned Zara who said that it was 'horrible to live there' and that she had left. Zara assured the Advocate that she had been in contact with her carers to tell them that she was safe. The Advocate reported the allegations of mistreatment and the contact with Zara to the Child Abuse Report Line and phoned the Manager of the Families SA office.

The Advocate encouraged Zara to return to her placement while the Advocate represented Zara's views to Families SA. Zara was very clear that she wanted to live with her grandmother. During the negotiations with Families SA, Zara sometimes returned to her placement but when absent she maintained contact with Families SA and GCYP.

With the help of the Advocate, Zara identified the following issues:

- Zara did not feel listened to and believed that her views were discounted. She felt that decisions were being made without discussion.*
- Zara had different views to her siblings about family contact and they competed for their grandmother's attention. Zara's grandmother was struggling with the different demands and Zara felt left out.*
- Zara's carer had recently and suddenly died and Zara felt that nobody understood what this meant to her.*

The Advocate helped Zara to talk with her social worker about her views and wishes, negotiate her placement and write to the Families SA Manager. Some things were changed as a result but not the placement.

Monitor

Statutory function

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

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.

Implementation of monitoring framework

In 2007 the Office 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 2014-15 the Office released four reports based on the findings of the monitoring work.

Monitoring activities

The Office undertook the following activities to monitor the circumstances of children and young people in care:

- Receipt and analysis of data available from the Department for Education and Child Development
- Audits of annual reviews (9 per cent of children on long term orders)
- Enquiries lodged at the Guardian's Office (6.5 per cent of children on care and protection orders)
- Visits to residential care houses and youth training centre units (40 visits)

Reports on findings of monitoring

Four reports on the findings of the monitoring were released. The first was a report on the audits of annual reviews for children who are under long term care and protection orders and the second and third were about children and young people in residential care. The fourth was about children in interim emergency accommodation (motel-type).

Aggregate data

Aggregate data is primarily sourced through and with the cooperation of the Departments for Education and Child Development, and Communities and Social Inclusion. The most current and all-purpose data is available from the Guardian's website. Notable changes are:

- The numbers of children on short and long term care and protection court orders at 30 June 2015 was 2,690, an increase of 11.6 per cent from 2011. After a sharp decline in the second half of 2013, numbers under orders are again on the rise with an increase of 4.4 per cent in the past 12 months.
- The proportion of children in out of home care who lived in residential care increased steadily from 2.3 per cent in 2005 but has plateaued somewhat in 2013 and 2014 to 12.4 and 12.7 per cent respectively.
- The proportion of children under the guardianship of the Minister who identified as Aboriginal has increased steadily from 22.8 per cent since 2006 but has plateaued from 2014 to 2015 at 29.6 and 29.4 per cent respectively.
- A total of 426 individual children and young people were housed in the Adelaide Youth Training Centre at some time in 2014-15 compared with 451 in 2013-14. The average daily population in the Adelaide Youth Training Centre has decreased steadily in the last few years from 61.0 in its first year of operation in 2012-13 to 57.6 in 2013-14 and 47.8 in 2014-15.

Children in interim emergency care (motel-type accommodation)

The Office began monitoring the numbers of children in motel-type emergency accommodation in February 2005 when the number was only ten children. The number rose to an average of 54 on any one night in 2006-07 and has stayed high since then. In 2014-15 the average number was 84, a rise from 50 in the prior year.

In 2014-15, the highest number at any one time was 126 which occurred in June 2015. Overall in the past year, there has been a mostly steady rise in the numbers, with a more dramatic rise since April 2015. At 30 June 2015, 41 children had had stays of over 100 days and the average in that year at any one time was 38 children who had been in that

temporary arrangement for over 100 days.⁴ The Office follows up on the circumstances for children who have been in this form of accommodation for more than 18 months.

The physical environments are inappropriate for children who are already in vulnerable circumstances and there is limited continuity and consistency in carers. While the quality of day-to-day care varies hugely, the instability and uncertainty for children is universal. The Office of the Guardian (GCYP) has received reports of, or witnessed, problems, such as frequent absconding, inconsistency in boundaries and approach to behaviour, missed schooling, lack of personal belongings, and isolation.

In June 2013 the Guardian wrote a summary of the information held at the Office about children in these arrangements for discussion with the Department for Education and Child Development. In November 2014 the Guardian convened a roundtable discussion on this topic with a group of senior officers from government, non-government and universities.

As a result, in December, written advice was provided to the Minister on reducing the use of interim emergency care. In February a public report was released.

Audits of annual reviews

The Senior Advocate audited 203 annual reviews at 12 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 9.0 per cent of reviews that were to be conducted, down from 9.3 per cent in 2013-14.

A report on the audit is provided to the Minister annually. The major findings for 2014-15 were:

- Of the 203 children and young people whose cases were reviewed, 145 (71 per cent) were in stable, long-term placements.
- Of the children and young people whose cases were reviewed, 188 (93 per cent) had at least one significant adult in their lives.

⁴ Comparisons of 'long-stays' with previous years is now not possible. In August 2014 the department stopped providing detailed reports, so the Office could not do independent analysis. The department reports on the number of children with stays over 100 days. In previous years the Office's tracking has been on numbers with stays over 60 days.

- Fifteen children and young people (seven per cent) including six adolescents approaching independence did not have any significant connections beyond Families SA.
- Eighty of the annual reviews audited were for Aboriginal children and young people. Fifty-eight (72 per cent) were placed with their extended family or with Aboriginal carers.
- Of the 143 children and young people who were considered capable of directly contributing to their annual reviews, 56 (39 per cent) participated in their annual review, either by attending (15 per cent) or by completing a survey (24 per cent). Three country offices were responsible for just over half of the direct participation of children and young people in annual reviews. Sixty-one per cent of children and young people, who could have directly participated, did not.
- Thirty-three children and young people (16 per cent of those capable of presenting their views to the panel) did not have a voice, directly or indirectly in their annual reviews.
- Of the 203 children and young people whose cases were reviewed, 163 (80 per cent) were confidently considered safe and reported to feel safe.
- Of the 168 children and young people who were of school age and attending a pre-, primary or secondary school, it was reported that 125 (74 per cent) had current Individual, or Negotiated Education Plans at the time of the annual reviews.
- Of the 203 children and young people whose cases were reviewed, 158 (78 per cent) were receiving standard health services and, where necessary, specific health and disability services to meet their needs.
- Fifty-eight children and young people (28 per cent) whose cases were reviewed did not have regular contact with the same worker. Of this group, 29 (14 per cent of the total number of annual reviews audited) who were allocated a social worker received less than the recommended monthly face-to-face contact, including 12 children who were receiving an assessed and approved differential case management response. Twenty-nine children (14 per cent) were not allocated to a social (or case) worker.

- Six of the 29 young people aged 15 years and over did not have transition plans as required by Families SA policy.
- Of the 151 children and young people who had the capacity to understand, 86 (57 per cent) had been provided with the *Charter of Rights for Children and Young People in Care*.
- Seventy-nine children and young people (39 per cent) whose cases were reviewed had a Life Story Book. This included 33 Aboriginal children and young people who have been supported to develop a culturally appropriate Life Story Book.

Residential care and youth training centres

Among other things, monitoring of the circumstances of children in residential care is based on formal visits to some residential settings. The visit includes a review of records that relate to the physical and emotional safety of residents, interviews with managers and a visit to residents to hear their perspectives. In addition, the residential care supervisors complete an annual self-evaluation survey that captures the perspective of the service provider and staff. A written report is then provided to senior management of the organisation. The Office is unable to visit all facilities for lack of time. Decisions about which sites to visit are made from analysis of information about the sites.

In 2014-15 there were 60 residential care properties provided by Families SA and non-government organisations for children and young people under the guardianship or custody of the Minister. The GCYP Advocates visited 28 residential facilities.

In November 2011, at the urging of the Guardian, the Minister for Education and Child Development agreed to progressively close the six larger and older residential care facilities, with two scheduled for replacement by the end of 2013 and the six to have been closed by mid-2016. Four were closed in 2014-15. Two of the older facilities remain in operation and there are three newer large facilities which accommodate 12 children in each. These large residential units are not suitable for children and should be closed.

There are two campuses for the Adelaide Youth Training Centre, under a single management team. In 2014-15 the Advocates conducted 12 visits to units within the youth training centre to talk with groups of residents. A written report followed each visit. The records are reviewed twice a year and a more comprehensive written report is provided to the Director of Youth Justice.

'Jessica', 13, contacted the Office of the Guardian (GCYP) to talk with an Advocate she had met during a GCYP visit to her previous residential care placement. Jessica had been moved following the closure of the house, and she was unhappy with the travel arrangements to school, which was some distance from her new placement.

Residential carers had been driving Jessica to school but could not continue to do so. They had arranged for taxi transport. Jessica said that she was nearly 14 years old and could use other public transport independently. She had worked out the route to school on two buses. Jessica agreed that it would make her school days extra long but she argued that she was only attending school part of the day anyway. Jessica said that no one listened to her views.

With her permission, the Advocate contacted Jessica's social worker. The social worker said that the decision for taxi transport was largely because of lack of staff time at the unit rather than Jessica's ability. However, there was also a safety concern because there had been problems in the school community. The social worker agreed that Jessica was of an age where she could expect to gain more independence and be trusted to use public transport.

The Advocate assisted the negotiation between Jessica and her social worker, resulting in an agreement to use a taxi to get to school and buses to return. Jessica was not aware of the safety issues in the school community. Shortly after the agreement, a decision was made by the school and Families SA to move Jessica to another campus. Jessica was invited to visit the new campus and included in decisions about her start date and classes. Jessica was satisfied with her new campus, transport arrangements and engagement in education.

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.

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.

Advice and inquiry

Written advice in 2014-15 was on the following topics:

- Case workers and children under long term guardianship
- Children in interim emergency care (children in motels/commercial care)
- Results of the audit of annual reviews
- Results of the 2014 consultation with service providers
- Proposed reforms to the Youth Court
- Community Visitor program for children in state care
- Improving educational attainment for children under guardianship
- Children's Protection (Implementation of Coroner's Recommendations) Amendment Bill
- Improved planning for out of home care

Case workers and children under long term guardianship

In October 2014 the Guardian drew attention to one finding of the 2013-14 audit of annual reviews, which was the significant rise in one year of the proportion of children who were not allocated a case worker. The rise had been from six per cent to ten per cent. (In 2014-15 this had risen to 14 per cent, see p20) Families SA offices reported that supervisors or senior practitioners undertake a limited case work role for some children in these circumstances.

The impact on a child of not having a case worker is significant. For example, the mandatory checks on their safety and good care are not conducted, the negotiations with schools and

health services do not occur, sharing of information among the care team is severely limited, permissions for participation in activities or medical services are slowed, and active pursuit or defence of the child's interests is inadequate. When this Office has asked children they report being aware of when they do not have a case worker and, while some showed indifference, others reported feeling lonely.⁵

There is no legislative requirement about contact between a child in state care and their case worker. However, regular contact is inferred from the legislative principles such as safety and stability, family connections, participation in decisions and regular reviews of circumstances. The *Standards of Alternative Care* say that monthly visits to a child are expected.

Children in interim emergency care (children in motels/commercial care)

In December 2014, the Guardian advised on strategies to reduce the use of 'commercial care'. Commercial care is the term now used by the Department for Education and Child Development to refer to a sub-group of children accommodated in rented premises with agency carers. In previous years the group has been referred to as 'children in motels' or children in interim emergency care.

Until this year, and since 2007, there have been, an average of 56 children on any one night in these arrangements. This year (2014-15) the average number has risen to 84. Nearly two-thirds of the children are in these arrangements for over 60 days and almost a third for more than 18 months. This type of care is used rarely in other Australian states and territories.

In November 2014 the Guardian convened a small group of senior officers from government and non-government agencies, and universities to explore the reasons and possible solutions to this problem. The advice to the Minister was based on this discussion and on analysis of the circumstances. A public report was released in February 2015.

Proposed reforms to the Youth Court

⁵ See, GCYP (2009) *The Significance of Quality Contact between Children and Young People in Care and their Case Workers*, inquiry Report <http://www.gcyp.sa.gov.au/2009/08/quality-contact-between-children-and-workers/>

In late February 2015, the Attorney General invited comment on proposed legislative amendments affecting the composition of the Youth Court and some criminal trials involving minors.

The Guardian did not support the proposed changes of replacing the Senior Judge with the Chief Magistrate as the principal judicial officer and adding more circumstances where a minor could be tried and sentenced in an adult court. The proposed amendments were subsequently modified.

Community Visitor program for children in state care

Visiting by an independent person whose sole interest is what is happening to the child and what the child *thinks* about what is happening is a safeguard against oversight, abuse, mistreatment and silencing. The benefits of independent visiting are advocacy by an adult when required, regular monitoring of circumstances, more rapid identification and resolution of problems, and supporting young people to make sound decisions. These are also the responsibilities of the child's case worker. The audits undertaken by the Guardian though show that face-to-face contact between case workers and children are not frequent.

Allocating visitors to all children would be expensive. The proposal is to have a visitor program for children who are new to care and are experiencing instability of placement.

Improving educational attainment for children under guardianship

Educational results for children and young people under guardianship of the Minister are significantly below that of their age peers and, while the gap appears to be narrowing in Years 3 and 5, it is not narrowing in Years 7 and 9. For example, by Year 9 almost two thirds of children under guardianship have difficulty making sufficient progress in writing to proceed to the next level.

The Guardian proposed eight strategies as a start to narrowing the gap in educational achievement.

Children's Protection (Implementation of Coroner's Recommendations) Amendment Bill

The Guardian was concerned that the proposed removal of the principles from the *Children's Protection Act* diminished the emphasis on several important guidelines to practice and decisions, namely:

- Considering a child's wellbeing and best interests, in addition to safety.
- The significance of family relationships for children, well beyond that of their parents.
- Requirement to consult with children in decisions that affect them and to provide information to them; and
- Respect for a child's privacy.

The Guardian suggested, that if the principles were removed, a new section be inserted to require the views of the child to be considered in all major decisions which affected the child.

The Bill was subsequently amended to include a new Object to the Act which said that "if decisions are made under the Act in relation to a child, the decision maker must have regard to the views of the child (if the child is willing and able to express such views)."

Improved planning for out of home care

The Guardian's view is that there is no evident longer term planning for the provision of out of home care. The result is reactive strategies and limited integrity of programs with consequent poor outcomes for children. There have been two directions documents but, for a range of reasons, the implementation planning has stalled. Some progress has been made in diversifying the types of care and agreement has been reached on out of home care standards. However, joint planning between government and non-government providers is not done in any substantial way.

The benefits of a joint process, resulting in a public plan include: a more integrated OOHC system with external logic and internal integrity; efficient use of resources; greater accountability and transparency; and commitment to continuous quality improvements. The Guardian proposed strategies to commence comprehensive planning for out of home care.

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

Our goal

Inquiries result in systemic reform that is long-standing.

No major inquiries were conducted in 2014-15.

Investigate

Statutory function

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

Our goal

Investigations result in practical recommendations that are acted on.

With the exception of one individual case, 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 Education and Child Development on these matters.

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.

The Guardian is required to maintain a Youth Advisory Committee which assists the Guardian in the performance of their functions by ensuring that they are 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 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 2014-15.

Energy management

The Office of the Guardian recycles all waste paper and power standby features are engaged.

Freedom of information

Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no FOI requests for other information during 2014-15.

Strategic and organisational planning

The office released its Strategic Plan for 2011-15 in June 2011. The office has an annual work plan which is reviewed quarterly.

Workplace health and safety

In 2014-15 there were no incidents resulting in workplace injury.

Employee numbers, FTE and gender profile⁶

Total number of employees (including Guardian) at 30 June 2015			
Persons			8
FTEs			6.6
Gender	% Persons	% FTEs	
Male	25%	21.2	
Female	75%	78.8	

Workforce diversity: age and gender profile

Age bracket	Number of employees by age bracket by gender at 30 June 2015				% of Total	2014 Workforce Benchmark*
	Male	Female	Total			
15-19						5.5%
20-24						9.7%
25-29						11.2%
30-34						10.7%
35-39		2	2	25		9.6%
40-44		3	3	37.5		11.4%
45-49						11.1%
50-54						11.4%
55-59	1	1	2	25		9.1%
60-64						6.7%
65 +	1		1	12.5		3.6%
Total	2	6	8	100		100.0

⁶ Further human resources information is available from the Commissioner for Public Sector Employment at www.publicsector.sa.gov.au

Workforce diversity: disability

Male	Total number of employees with disabilities		% of agency
	Female	Total	
0	0	0	0

Leave management

Leave type	Average days leave per full time equivalent employee
	2014-15
sick leave	8.2
family carer's leave	0.5
special leave with pay	1.0

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	

Financial

Consultants

There were no consultants engaged by the office during 2014-15.

Expenditure

Financial services are provided by the Department for Education and Child Development. 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 summary of expenditure is provided below.

Financial summary of expenditure 2014-15			
Item	Actual	Budget	Variation
Salaries and wages	725 026	748 890	23 864
Goods and services	149 492	138 800	(10 692)
Total	874 518	887 690	13 172

The staff team

Office Manager

Meagan Klapperich

The Office Manager provides a range of services within the Office including records management, human resources and finance support. She manages the implementation and maintenance of key facilities and services and coordinates the implementation of the Charter of Rights.

Communications Officer

Malcolm Downes

The Communications Officer researches and produces print, online and video materials for electronic and paper distribution, oversees the website and provides ad hoc support and services to Office staff on communications and information matters.

Senior Policy Officer

Kendall Crowe (to May 2015)

Alan Fairley (from June 2015)

The Senior Policy Officer conducts research and consultations, prepares policy papers, briefings and reports for the Guardian.

Senior Advocate

Amanda Shaw

The Senior Advocate leads the advocacy team, manages the Office's monitoring activities and audits annual reviews for children and young people under guardianship.

Advocates

Belinda Lorek (from March 2015)

Melissa Clarke

Jodie Evans

Sarah Bishop (to March 2015)

Advocates investigate and advocate on individual matters and monitor quality of care in residential and youth justice facilities. They also undertake project work specific to their skills and areas of interest to the Guardian.