

Guardian for Children  
and Young People

**2007-08**

**Annual Report**



Government  
of South Australia

October 2008

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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@saugov.sa.gov.au](mailto:gcyp@saugov.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 2008, 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 2007-08 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 initial "P" and "S".

Pam Simmons  
Guardian

3 October 2008

# Contents

What we do .....	1
The year in review .....	3
Who we work for.....	7
Functions and outcomes .....	9
Promote .....	10
Advocate.....	13
Monitor.....	18
Advise .....	23
Inquire.....	25
Investigate .....	28
Our organisation.....	29

## 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 in alternative care. 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 with others to improve services to children and young people in out-of-home care, 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
- 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.

### **Our purpose**

Making it work for kids in care.

### **What we believe and value**

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.

We value:

- transparency and integrity
- decisive and clear action
- courage in promoting the rights of children and young people in care
- respect towards our colleagues and the people with whom we work
- active involvement of children and young people in our work

## The year in review

This is the third full year of operation of the Office of the Guardian and the second under full statutory powers and responsibilities.

In last year's annual report I drew attention to the significantly lower level of funding in South Australia compared to other states and territories, for intensive family support services and for children in state care. The erosion of funding for family support since the mid-1990s had added to the pressures on the front line of the child protection system, including alternative care for children in need. It was therefore heartening to see this recognised in the 2008-09 State Budget with increased expenditure on family support and child protection.

### *More is spent on family services*

Intensive family support services are provided to families with complex and chronic problems which result in children being at risk of neglect or abuse. It includes reunification services to families where children have been removed temporarily. The intention is to work closely with families for up to six months and for around four hours per week to help make the family environment safe for children. Up until 2008-09, South Australia had been going backwards for around 12 years in real expenditure on intensive family support.

In 2006-07 South Australia's reported expenditure was \$1.69 million on intensive family services, equating to only \$4.81 for each child 0-17 years in this state. By way of comparison, in the same year Victoria allocated \$22.40 million or \$18.86 per child. The 2008-09 State Budget will add \$3.10 million to yearly expenditure, making a total of \$4.79 million, equivalent to \$13.69 for each child. This is a significant improvement and one that can be built on in future years.

The vulnerable infants services plan was to be a service delivered to families with chronic needs through the Department of Health and closely linked to its family home visiting program. To date there is to be a pilot program only, sometime in 2008-09. I hope to see this plan fully funded and implemented in 2009-10.

### *But the child protection system is fragile*

The year ended with public attention nationwide drawn to the fragility of our child protection systems with the tragedies or near-tragedies of child deaths caused by parental neglect. The Australian Government responded by announcing their intention to introduce a national approach to child protection, flagged in a discussion paper about a national framework.

Child protection systems in Australia are indeed fragile, with increasing numbers of reports of abuse and calls for investigation of reports. Recently the South

Australian Department for Families and Communities released a research report on contact with the child protection system. It showed that of the children born in 1991, 22.5 per cent had been the subject of at least one child protection notification. Almost half were only notified once. The projections show that children born after 1991 are increasingly likely to be notified and to have contact with the child protection system so this number is growing at an accelerated rate. Each year now in South Australia there are over 18,000 notifications of suspected abuse. Expecting that a single agency will respond to all reports of concern about children and secure their safety is unsustainable.

There are therefore renewed efforts to coordinate services to families and children between Families SA, non-government organisations, and government agencies. For example, the children's centres, of which seven are now operating of a planned total of 20, engage family services coordinators and community development officers, in addition to early childhood programs. Non-government organisations are working more closely with the Families SA District Centres to target families at high risk.

One of the biggest challenges is providing child protection services to remote areas. This was highlighted in April with the release of the report from the Children on APY Lands Commission of Inquiry which documented abuse of children in the context of disorganised communities, poverty, and poor health. By year's end there was confirmation that child protection social workers would be located in the APY communities and close liaison established with schools and health services.

#### *Children in state care need the best care*

In 2007-08 we have seen an 8.4 per cent growth in 12 months in the numbers of children under care and protection orders. The average growth since 2004, when the Office began monitoring, is 10 per cent. This increased demand was recognised in the 2008-09 Budget with an additional \$29.2 million allocated for previous years' growth, and in anticipation of continuing growth in the year ahead. This recognition of evident cost pressures is welcome. A basic provision has been guaranteed for children in state care, and further improvements are now required.

During the year there was confirmation that the training provided to educators for assisting children with trauma-related learning difficulties (SMART) would continue until 2011 and be used more widely to improve inter-agency work. The Rapid Response commitment to provide children under guardianship with priority access to public services continues to produce benefits, even if waiting times are still frustrating. Under the Rapid Response umbrella, standards for the provision of health services to children under guardianship have been agreed. Standards for the provision of alternative care have also been finalised and a provider panel has been introduced to better monitor the quality of care provided in the out-of-home care sector.



There remains a big task ahead in expanding and advancing alternative care provision. It is important that the Government's response to growing numbers of children in need of alternative care is not reduced to a calculation of the number of beds. Together with expansion has to go the ambition to make the service superior. In this vein I am deeply concerned that the Government has contradicted what is known about safety in residential care by accommodating even more young people in some of the residential care units because there were 'spare' beds. In my earlier report on preventing sexual abuse in care I pointed to the already high number of residents per unit. Evidence about safe congregate care puts a maximum at six residents in any one unit. In the past year two units have had to increase their numbers from 10 to 12 and two other residential facilities are planned, each accommodating 12 residents. This decision to increase the number of children per unit is wrong and must be reversed.

There is also an urgent call to respond better to children with high and complex needs. About a quarter of the children in care have very significant problems as a result of their histories of abuse or neglect. They need specialised alternative care and strong therapeutic support which have hitherto been lacking in South Australia. I am deeply troubled by proposals that young people at high risk should be detained in secure facilities as an alternative to treatment and support through intensive community-based therapeutic services.

*And young people in detention deserve better*

In 2007, the Social Inclusion Commissioner Monsignor Cappo released his report *To Break the Cycle* with recommendations to address the problem of serious and repeat offending by young people. This follows the 2005 report of the Parliamentary Select Committee on the youth justice system. Both reports point to the significance of rehabilitation programs and a consistent approach to young people who move between lock-up and community.

A new approach has been adopted in Families SA to better supervise and support repeat young offenders, particularly on their release from detention. It is disappointing to see this approach undermined by proposed legislative changes which effectively detain young people for longer, including the court dealing differently and more harshly with repeat young offenders. However, if young people are to be detained, they should have access to higher quality programs and services while in custody.

The new youth training centre is now due to open in 2011, a year later than the opening date originally proposed. Any further deferral would be undesirable, given the widely-recognised deficiencies of the existing Magill facility.

*Buoyed by cooperation and commitment*

One great strength of the child protection system and youth justice services is the professional and personal commitment of its workforce and carers. Equally strong is the power of the children and young people to recover, strive and achieve. I thank everyone my Office has worked with over the past year for their cooperation and goodwill.

## **What we have achieved in 2007-08**

- Application of a monitoring framework based on children's rights.
- Introduction of a youth participation policy and strategy, developed with our Youth Advisors, who now number five.
- Working with young people in care on the production of comic books about their experience.
- Forty two agencies are signatories to the Charter of Rights, up from 29 in 2006-07.
- Responding to 117 requests for assistance with individual children, 24 of which were the subject of further enquiry and advocacy.
- Completion of an inquiry into strategies to improve the educational outcomes for children in care.
- Completion of a review of programs in the youth training centres.
- Working with the CREATE Foundation (SA) in supporting the Youth Parliament team and drama workshops for young people.
- Release of our strategic plan for 2007-2010.
- Oog, the character representing safety for children in care, joined the Credit Unions Christmas Pageant for the first time.

## Who we work for

We promote and protect the rights of the over five in 1000 South Australian children and young people under 18 years 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 2008 in South Australia there were 1,942 children and young people under the guardianship or custody of the Minister, not counting the 38 on interim or temporary orders. These 1,942 children and young people had the following characteristics.

### ages

15 and over	18.6%
10-14 years	31.9%
5-9 years	27.8%
2 to 4 years	16.1%
0 to 1 years	6.6%

### gender

females	48.4%
males	51.5%
unknown	0.1%

### aboriginality

Aboriginal	24.4%
unknown	1.6%

### types of order

long term care and protection order	79.7%
12 month care and protection order	20.3%

Source: FSA Data Warehouse

At 30 June 2007, the latest figures available at the time of publication, the rate per 1000 of children aged 0-17 years on care and protection orders was 36.9 for Aboriginal and Torres Strait Islanders and 4.3 for non-Indigenous children.

Based on shared data between Families SA, Disability SA and the Department for Education and Children's Services, we know that around one in eleven children under guardianship have a moderate, severe or profound disability and than one in three have developmental delays or learning disabilities.

The living arrangements for children under care and protection orders<sup>1</sup> are as follows.

**care arrangements**

parents	5.7%
relatives/kin (unpaid)	6.2%
foster care	41.5%
relatives/kin (paid)	29.8%
other home based out-of-home care	0.2%
community residential care	7.6%
independent living	4.6%
other/unknown (includes interim emergency accommodation)	4.5%

Source: FSA Data Warehouse

Since the formation of this office, there has been a steady growth of an average of 10 per cent per annum in the number of children and young people under the custody or guardianship of the Minister in South Australia.

In 2007-08 there were 1,030 admissions to secure care representing 525 individual young people and the average daily occupancy of the two secure training centres was 71.95.

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<sup>1</sup>This includes all children where custody or guardianship has been transferred away from their parents, and consequently have included children under Voluntary Custody Agreements (83) and children on 3<sup>rd</sup> Party Guardianship orders (42).

## 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
- 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 goal

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

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Together with many others we advocate for timely intervention for children at risk of harm. In the 2006-07 Annual Report I commented on the erosion of funds to services that could support families at times of crisis or with chronic and complex problems. Our promotion of the need for South Australia to provide intensive family support and earlier intervention for children at risk continued throughout the year.

On 3 June 2008 the State Government announced additional expenditure of \$28.2 million over the next four years for early intervention and intensive family support.

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### Our goal

**Care and services for children in care are focussed on the child achieving her/his full potential.**

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#### *About being in care*

We continue to work with our Youth Advisors and other young people in care on what they would like to say to others about their experience. Most of this is targeted to other children in care and the key messages are about safety, feeling good and having a say. This project is ongoing and in previous years we have produced a booklet, contact cards, a social worker checklist, back-packs and 'rights' wristbands.

This year we are working on comic books and the promotion of Oog, the character exclusive to children in care. Oog made its public debut in the Credit Unions Christmas Pageant, and is reproduced now in give-away items for children.

We have also supported the CREATE Foundation and Budgie Lung Theatre Company in the preparation of stories from young people in care about their lives and thoughts.

*Voice of children and young people*

Core to our purpose is strengthening the voice of children and young people in care. We do this in most of our activities and this year we adopted a formal youth participation policy and strategy for the Office. Reports, newsletters, policy advice and presentations emphasise what young people have said about the matter. We source their views through focus groups, interviews, reference groups and our Youth Advisors' meetings.

*Safe keeping orders*

In April 2008 we commenced an inquiry into the benefits and costs of safe keeping provisions. Safe keeping is the statutory confinement in a specific location of a child or young person whose safety is at immediate and substantial risk and cannot be assured other than through confinement. There is growing interest in this service and some other Australian states have introduced safe keeping legislation. In June 2008 the Minister sought advice from the Guardian on this matter. We expect to provide advice in August 2008.

*Services Bank and Dame Roma Mitchell Trust Fund*

We have an interest in securing other benefits for children in care. We do not have responsibility for the Services Bank and the Dame Roma Mitchell Trust Fund for Children and Young People but we work closely with Families SA, Community Connect (DFC), and the Board of the Fund in finding additional goods and services.

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**Our goal**

**All decisions that affect children in care take into account their views and are made in the best interests of the child.**

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*Literature review on participation in case decisions*

We have commenced a project on the benefits of taking into account the views of children in decisions that directly affect them. The first stage of the project is to prepare a literature review. This will be released in October 2008.

*Michael*

'Michael', 13, lives in Queensland but is under guardianship in South Australia. He has recently had a number of rapid placement changes. This had been noted by the community visitor and reported to the Queensland Children's Guardian (and Commissioner). The Commissioner's office contacted the SA Office of the Guardian to seek clarification about which jurisdiction was responsible for decisions about placement change, to check whether Michael had been engaged in decision-making and that he was supported by the statutory body here to return if he wanted to.

Michael lives in a remote area and direct contact with him by us was not possible. Instead we spoke to the SA District Centre. The case worker and the senior practitioner demonstrated significant engagement with Michael and his extended family in the discussion about the most appropriate placement and his rights in decision-making. They had recently travelled to Queensland to talk again with him and his family. He would be supported to return to South Australia but for now he wants to remain in Queensland with his siblings and extended family. This was confirmed with the Queensland office and decision making responsibility continues to be negotiated with the Queensland Department of Child Safety.

*Modelling participation in decision making*

A youth participation policy and strategy has been adopted and we continue to monitor our performance against the strategy which requires the active contribution of children and young people in our work and decisions. For example, young people participate in our systemic inquiries, projects, selection panels and information provision. Our Youth Advisors are expected to contribute often to the work of the Office and this year, among other things, they decided to prepare their own response to the Children in State Care Commission of Inquiry report, write for the Office's newsletter and advise on the preparation of the comic books for children in care.

*Individual advocacy*

We provide a trouble-shooting service for children in care who may be seriously harmed or distressed about decisions or lack of services [see below, p. 13]. This requires adopting the child's perspective as part of the advocacy process and, where possible, talking to the child.



## Advocate

Statutory function

To act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister

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### Our goal

**Issues in the best interests of children under the guardianship, or in the custody of, the Minister are continually raised and followed through by the Guardian.**

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### *Safe keeping orders*

As a result of growing interest and support for introducing safe keeping provisions in South Australia we engaged a policy officer to research this topic and convene a roundtable discussion of experts. [See p. 28] Participants in the roundtable discussion provided well considered views and experience and there was divided opinion about the need or wisdom of having safe keeping provisions. A discussion paper is available from our website.

### *Individual advocacy*

Our individual advocacy work is consciously linked to our advocacy on systemic issues. Trends or repetition of problems are identified and pursued. In 2007-08 the Office received 117 requests for intervention on behalf of children and young people. Of these, 24 requests were opened for further investigation. A single matter sometimes affects more than one child or young person in care; therefore, we intervened on behalf of 31 children and young people.

Below is information about the 31 children and young people at the time of referral.

<b>care arrangements</b>	
In foster care	15
In residential care	6
Living independently (with support)	4
In secure detention	3
With parent under guardianship	1
Homeless	2
<b>ages</b>	
15 and over	12
10-14 years	12
5-9 years	3
0-4 years	4
<b>gender</b>	
Female	16
Male	15
<b>aboriginal</b>	4
<b>disability</b>	
With some form of disability	13 <sup>2</sup>
<b>types of orders</b>	
Long term care and protection order	22
12 month care and protection	4
Investigation and assessment	1
Youth justice	3
Expired 12 month care and protection	1
<b>source of referral</b>	
Foster carers	9
Families SA	8
Young people themselves	6
Parents/guardians	2
Advocate for child	6
<b>presenting issues</b>	
Families SA decision making	11
Family contact	8
Adolescent in residential care at-risk	3
Inappropriate placement	2
Lack of support for young parents	2
Reunification practice or decision	2
No social worker allocated	1
Lack of accommodation options	1
Advocacy	1

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<sup>2</sup> This includes seven with behavioural issues, three with mental health issues and three with intellectual disability.

*Rick and Emily*

Brother and sister 'Rick' and 'Emily', 12 and 14, rang the Office of the Guardian with questions about their rights in care. They wondered whether they had to have contact with a social worker and whether the social worker was supposed to come to their schools to talk with them. During the conversation with them it was apparent that there was significant conflict between Families SA and their carers.

Families SA advised the Office of a significant history of conflict with the carers and concern about its negative impact on the relationship between the children and Families SA. The Senior Advocate provided feedback to Rick and Emily in answer to their questions.

Families SA later contacted the Office and requested our involvement in a case conference with the carers and the alternative care agency, to improve the relationship between Families SA and the carers. The Office attended the case conference, spoke with the children before and after the meeting and represented their views at the meeting. The meeting successfully achieved its goals of discussing matters of concern and determining solutions for all, including the participation of the children in their annual reviews. The Office then participated in their annual reviews and facilitated the participation of Rick and Emily in decisions that were being made on the day.

*Outcomes of inquiries*

Our systemic inquiries usually result in a report with recommended action. We then periodically monitor the implementation of the agreed strategies for change.

From previous years we were pleased to see a significant number of our recommendations on preventing sexual abuse in care adopted in the Children in State Care Commission of Inquiry final report. The inquiry into children living in motel-type accommodation and discussion with Families SA has resulted in improved quality of care overall. There is ongoing work being done to reduce the numbers of children accommodated in motel-type accommodation.

In 2007-08 we completed two inquiries. The first was an investigation of strategies to further improve the educational outcomes of children in care. Responsibility for implementation of the strategies was accepted by the Senior Officers Group for Care and Protection with reporting on progress through to the Inter-Ministerial Committee on Child Development. The second was a review of programs provided to residents of the two youth training centres. The eight

recommendations were accepted by Families SA and progress on implementation is reported every six months.

#### *Raising public awareness*

We aim to maintain an active program of public speaking and writing to raise awareness of issues for children in care and in child protection more generally. Seventeen public presentations were made, ten of which were about the rights of children in care in conjunction with presentation of certificates.

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#### **Our goal**

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

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#### *Charter of rights*

In 2005 children and young people in care wrote their own charter of rights with assistance from the Office of the Guardian, CREATE, Families SA and the Child and Family Welfare Association (SA). On the young people's behalf we have the responsibility for ensuring its implementation. An implementation committee met throughout the year to report on progress in endorsement, distribution and compliance with the rights. From May 2006 we have invited agencies to endorse the charter. As at 30 June 2008 42 agencies have committed to uphold the 37 rights.

In 2007-08 the following agencies endorsed the charter.<sup>3</sup>

Child Protection Services - Flinders Medical Centre  
Child Protection Services – Women's and Children's Hospital  
Kumangka Aboriginal Youth Service  
Northern Child and Adolescent Mental Health Service  
Novita Children's Services  
Nunkuwarrin Yunti  
SA Dental Service  
Southern Child and Adolescent Mental Health Service - Southern Mental Health  
Spina Bifida and Hydrocephalus Association of SA  
Salvation Army  
The Second Story Youth Health Service  
YMCA of SA  
Townsend House – CanDo4Kids

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<sup>3</sup> The other agencies to endorse the charter in previous years are: Aboriginal Family Support Services, Autism SA, Baptist Community Services, Connecting Foster Carers, Department for Families and Communities, Department of Education and Children's Services, Down Syndrome Society, Leveda, Life Without Barriers, Minda, Mission Australia, Paraquad SA, Port Lincoln Aboriginal Health Service, Ranges Youth Centre, Service to Youth Council, Shine SA, Southern Junction Community Services, St John's Youth Services, UnitingCare Wesley Adelaide, UnitingCare Wesley Port Adelaide, Youth Affairs Council of SA, YWCA of Adelaide, Anglicare SA, CREATE Foundation, Anglican Community Care, Lutheran Community Care, Uniting Care Wesley Port Pirie, Centacare Catholic Family Services and the Office for Youth.

In addition to seeking endorsement the implementation committee has overseen the production of self-assessment checklists, the appointment of charter champions and stories about rights and children's achievements in newsletters.

*Advocacy for reform*

Much of our advocacy is done in conjunction with others. We thank them all for their collaboration throughout the year. Particularly important is the joint work with Families SA, Child and Family Welfare Association, CREATE, Youth Affairs Council of SA, Department for Education and Children's Services, Health SA, Council for the Care of Children, SA Council of Social Service, Child Death and Serious Injury Review Committee, NAPCAN, Health and Community Services Complaints Commissioner, Children and Law Committee of the Law Society, Attorney-Generals Department, Asia-Pacific Association of Children's Commissioners and the Australian Centre for Child Protection.

## Monitor

Statutory function

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

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### Our goal

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

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#### *Implementation of monitoring framework*

The previous year saw the introduction of 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. Later in 2008 we will release a report of what we know about how well children are cared for in alternative care.

#### *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 (see below)
- audits of annual reviews (6.6 per cent of children on long term orders)
- enquiries lodged at the Guardian's office (6.5 per cent of children on any order)
- visits to residential and secure care units
- review of records of safety in secure care
- field consultation with service providers

#### *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 are:

- The numbers of children on 12 month and 'to 18' guardianship orders has risen from 1,362 in June 2004 to 1,942 in June 2008, an increase of 42.6 per cent with an increase in the financial year 2007-08 of 8.4 per cent.
- The number of children 0-17 years on care and protection orders has grown from 4.2 per thousand children in 2004 to 5.4 per thousand in 2007, the latest figure available at the time of publication.

- In the 2.5 years December 2005 to June 2008, the proportion of children and young people in family based alternative care has declined steadily from 92.5 per cent to 85.7 per cent. In the same period, the proportion in residential care has remained much the same.
- The proportion of children and young people in all forms of emergency short term care has risen from 1.5 per cent to 7.7 per cent in the period December 2005 to June 2008 while the number in interim short term care (motels, B&Bs) has risen from 1.2 per cent to 4.0 per cent.
- The proportion of Aboriginal children placed with Aboriginal and Torres Strait Islander relatives increased from 27.6 per cent in June 2005 to 37.7 per cent in June 2008.
- The proportion of children under 12 month and 'to 18' orders who are Aboriginal grew from 20.5 per cent in June 2005 (5.5 per cent unknown) to 24.4 per cent in June 2008 (1.6 per cent unknown).
- The total number of admissions to secure care has grown from 915 in 2004-05 to 1030 in 2007-08 and average daily occupancies have grown from 51.55 to 71.95 in the same period.

#### *Audits of annual reviews*

The Senior Advocate audited 94 annual reviews at 13 district centres. This is 6.6 per cent of reviews that were to be conducted. Annual reviews are only conducted for children and young people placed under long-term guardianship orders.

A summary report on the audit is provided to the Minister annually. The major findings for 2007-08 were:

- Almost all children and young people reviewed were in safe and nurturing environments. However this did not guarantee stability and security of a placement.
- With a few exceptions, annual reviews were conducted using the Guardianship Annual Review forms and templates, facilitating the participation of children, their carers and birth families through surveys, tele-conferences or attendance.
- There is considerable work to be done to ensure that each child has regular contact with the same case worker who is skilled, knowledgeable, respectful and advocates in the child's best interests.
- The audit highlighted that the Rapid Response initiative has improved access to services but that children and young people in care may still not receive health and disability services without considerable waiting time.

*Visits to residents of residential and secure care*

Families SA has six residential care units and ten transitional accommodation houses. In 2007-08 the Senior Advocate made 18 visits to 14 of the facilities to meet and talk with the residents and staff. Feedback is provided immediately to the relevant manager and any specific concerns have been quickly responded to. During the visits, the Senior Advocate met 80 children and young people.

In 2007-08, the Senior Advocate commenced informal visits to the secure care centres. Five visits were made to different units within Magill and Cavan Youth Training Centres to meet and talk with the residents and staff. Feedback is provided immediately to the relevant manager and any specific concerns have been quickly responded to.

*Review of records of safety in secure care*

In August and February we visited the two youth training centres for the purpose of reviewing their records that relate to the physical safety of residents. There is evidence of continuing improvements in responding to residents' needs, constrained by staff skill levels and physical infrastructure. Particularly important has been the introduction of a complaints process and resident's meetings, the reduction in the use of force in the Magill centre and improvements to monitoring young people kept in solitary detention. There are a continuing high number of residents in both centres and we are concerned about the quality of programs and the response to residents with mental health problems. Discussion with Families SA continues on these issues.



Sylvia

'Sylvia', 10, was removed from the care of her father after a severe beating. Prior to this incident, Sylvia had a significant and lengthy child protection history. On discharge from hospital, she was placed with an aunt by Crisis Care.

Some time later Sylvia's aunt phoned our Office because she was concerned that Sylvia could not get access to treatment or therapeutic services that other abused children had because she was not in a formal care arrangement.

Previous reviews of the matter had concluded that all policies and procedures had been followed and that Families SA was not obliged to assist. However, in discussion again with Families SA the decision was overturned and Sylvia was to receive services and her aunt registered as a relative carer.

*Field consultation*

The purpose of the consultation is to hear from professional workers their views on how well the care system works for children and young people. From October to December, consultation sessions were held at 39 sites state wide with 274 participants in total. This was the fourth such consultation.

I was left with the impression that, despite considerable financial constraints, workers in child protection are focused on the children for whom they have a duty of care and are mostly resilient to the increasing demands on their time. It was my impression, and confirmed by participants outside Families SA, that there is a growing sense of order in Families SA that results in an improved service to children. While there is still some way to go in achieving even adequate inter-agency cooperation, this too appears to have improved.

Families SA district centres are struggling with the harsh and hard decisions about how best to respond to the conflicting demands of investigating a growing number of notifications and meeting the needs of children under guardianship. Outside Families SA there was acknowledgement of the intense pressure and budget constraints which have, in turn, strained relationships and negotiations over expenditure on children's costs.

*Youth Advisors and participation*

Knowing what is happening to children in care is our goal but the knowledge is imperfect. We cannot be where all the children are. However we do take every opportunity to hear from young people in care about their experiences. Our five Youth Advisors are at the heart of this advice to us and they, in turn, encourage other young people to participate in our consultations. Our youth participation policy and strategy will strengthen our engagement with children and young people.

The Youth Advisors assist the office with most projects, the selection of staff and contractors, initiate projects of their own, do some public speaking and contribute to planning and policy advice. This year they commenced monthly meetings and a youth advisors' page in the newsletter.

## 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 goal

**Advice to the Minister is credible, actionable, practical, informed by children and young people and has significant benefit for children and young people.**

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#### *Advice and inquiry*

In 2007-08 two major inquiries were conducted and advice provided to the Minister as a result of these. These are reported in the following section, Inquire. Both major inquiries included chapters on young people's views about the topic of inquiry.

#### *Children missing from residential care*

Following discussion with Families SA and the South Australian Police a report was prepared on the circumstances of young people who frequently run away from their residential care placement. Proposed strategies to better address their needs were negotiated with Families SA and a progress report is to be prepared in September 2008. Some of the recommendations in this report were reinforced in the Children in State Care Commission of Inquiry Report (the Mullighan Report) released in March 2008 and accepted by the State Government in June.

In November I advised the Minister that there was a protracted delay in progress on a legislative amendment to the *Summary Procedures Act* to restrain people who exploit children by offering them shelter, drugs or other goods in return for sexual favours. The proposed amendment was also recommended in the Mullighan Report and has since been accepted by the State Government. It has yet to be presented in Parliament. I also advised that the decision to increase the numbers from 10 to 12 residents in two of the residential care units was contrary to what is widely recommended as safe and secure. Higher numbers in congregate care increase the risk of abuse and detract from a positive residential environment for children. The decision to increase the numbers was not overturned.

#### *Intensive family support services*

In the opening statement to the 2006-07 Annual Report I drew attention to the erosion of funding to intensive family support services since the mid-1990s and its impact on vulnerable children. South Australia was then working from a very low

base of expenditure compared with other states and territories. This view was echoed by others and accepted by the State Government. In the 2008-09 State Budget, delivered on 9 June 2008, there was an additional allocation of \$13.2 million over four years for intensive placement prevention and reunification services.

*Child safe environments*

I advised the Minister of my deep concern, shared by others, that the *Public Sector Management Act* could be used to preserve employee's positions of working with children despite evidence of previous inappropriate behaviour. I believe that the legislation should be reviewed so that the employer's duty of care to vulnerable people is not compromised in this way.

*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:

- Protocol for transition of young people with disabilities
- Procedures for use of force in residential care
- Anti-social behaviour orders
- Standards of alternative care
- Information-sharing guidelines for the wellbeing of children
- Youth Advisors' response to the Mullighan Report

## 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

**Inquiry is timely and based on sound monitoring and contact with children.**

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#### *Improving educational outcomes*

As a group, children under guardianship are significantly behind their peers in educational outcomes. The initiatives in the past four years generated by the social inclusion school retention strategy, the Rapid Response commitment (notably the Individual Education Plans) and the Department of Education and Children's Services' (DECS) commitment to early childhood development and learning support for disadvantaged groups have all contributed to some reported improvements in outcomes. Evidence from overseas and interstate suggests that further progress will be made by a sustained, focused and targeted approach to education for children under guardianship.

This inquiry was primarily intended to identify other strategies that could be adopted in South Australia to support students with their learning. The report, released on 29 January, was prepared by Ms Julie White and Ms Helen Lindstrom and it included the views of 40 young people in care who participated in interviews or focus groups. In all, 61 strategies were identified. Priority areas for attention can be summarised as:

- Bringing learning in to the home and raising expectations of what can be achieved.
- Assistance at transition to new schools.
- Timely one-on-one assistance from children who have fallen behind.
- Cooperative working among home, school, social workers and the district offices of DECS.
- Trouble-shooters in DECS and Families SA to resolve issues promptly.

Responsibility for implementation now sits with the Care and Protection Senior Officers Group, an inter-departmental committee, with progress reports to the Inter-Ministerial Committee on Child Development.

*Review of programs in the youth training centres*

In 2005 the Parliamentary Select Committee on the Youth Justice System reported on the lack of rehabilitative programs for young offenders in secure care and recommended a comprehensive framework of targeted therapeutic programs (Recommendation 18). Similarly the Commissioner for Social Inclusion's report *To Break the Cycle* identified the gaps in systematic assessment, individual case management, and therapeutic and rehabilitative programs. (Recommendations 21-25)

The Families SA Youth Justice Directorate had embarked on a reform process that included improved assessment and case management systems and a renewed focus on rehabilitation. I had heard from many people a high level of dissatisfaction with the way in which programs were structured and the need to improve the quality and range of programs. This view was from within and outside Families SA.

The review was conducted from July to December 2007 and the findings discussed further with Families SA in January 2008. The review was undertaken by Dr Andrew Day and Dr Sharon Casey from the Centre for Applied Psychological Research, University of South Australia. The methodology included focus groups with training centre residents.

The findings of the review suggest that significant re-development of youth training centre programs is required. In particular:

- Clarification of the purpose and aims of youth justice with program providers and the development of a service delivery framework for programs.
- Introduction of a new case management tool.
- The development of age, gender, and culturally appropriate services.
- Ongoing monitoring of the social climate of the centres.

There were eight recommendations, all of them accepted by Families SA. Progress reports are to be prepared twice a year.

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**Our goal**

**Reform is focussed on improving the quality of care**

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*Children in motel-type accommodation*

We began monitoring the numbers of children in motel-type emergency accommodation in February 2005. In January 2006 we had 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. In 2007-08 the numbers rose from a low of 51 in August to a high of 87 in May. This is in the context of an 8.4 per cent rise in the number of children in care this year. Over the year a total of 289 children or young people had stays longer than one or two nights in emergency care with rotating carers.

Renewed effort by Families SA to provide higher quality care and shorter stays in emergency care continues and all are agreed that accommodating children in motels or cabins with changing carers is inappropriate. While the focus is often on the numbers, the increase in numbers is a reflection of the demand on alternative care and its capacity to respond quickly to more children in need. It is not acceptable though to respond by treating this merely as a demand and supply matter, counting children in need against numbers of placements. Experience and common sense tells us that placement for a child is so much more than a room of their own. So, while I remain concerned that we have too many children in motel-type accommodation I am more concerned that we make their next move the right one.

## 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

**Systemic and individual investigations result in recommendations that are practical, acted on and that improve outcomes for children**

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#### *Safe keeping orders*

In May 2008 the Minister sought advice from the Guardian on questions related to the recommendation in the Commission of Inquiry Children in State Care report that a secure care therapeutic facility be established. This advice is to be provided in 2008-09.



## Our organisation

### Legislation

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.

### Governance

Under the *Act*, the Guardian is appointed or removed from office by the Governor on the recommendation of the government. 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 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 government and non-government organisations that is necessary to fulfilling her functions.

The Guardian makes frequent use of 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 Wing, 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 website is designed to be accessible to children and young people in care as well as interested adults. It conforms to South Australian Government website standards in that it complies with Priority 1 checkpoints and is working towards compliance with Priority 2 checkpoints in the Worldwide Web Consortium's Web Content Accessibility Guidelines. The webmaster is an active member of the DFC Website Accessibility Community of Practice.

### **Complaints**

The grievances and complaints policy was revised and updated in 2006. It is available from the website and is provided when someone complains about the service.

There have been no complaints made to the Office about the service in 2007-08.

### **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. In this financial year the office switched to a fuel efficient hybrid vehicle and staff select hybrid vehicles from the fleet by preference when necessary.

### **Freedom of information**

The legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no requests under FOI to this Office during 2007-08.

### **Strategic and organisational planning**

The Office undertook a comprehensive strategic planning exercise, with input from stakeholders including the Minister and young people in care, foster carers and representatives of government and non-government organisations. It published its strategic plan for 2007-10 in October 2007. The Office has an annual work-plan which is reviewed twice yearly and all staff have individual work-plans which are periodically reviewed.

The Office reviewed the strategic plan and reassigned some priorities in June 2008 and the annual work-plan and staff work-plans were adjusted accordingly.

**Employee numbers, gender and status**

Total number of employees	
Persons	5
FTEs	3.45

Gender	% Persons	% FTEs
Male	20	23.5
Female	80	76.5

Number of persons during 2007/08	
Separated from agency	0
Recruited to agency	2

Number of persons at 30 June 2008	
On Leave Without Pay	1

Number of employees by salary bracket			
Salary bracket	Male	Female	Total
\$0 - \$46,399			
\$46,400 - \$58,999	1	1	2
\$59,000 - \$75,499		2	2
\$75,500 - \$94,999			
\$95,000 +		1	1
Total	1	4	5

Status of employees in current position					
Persons	Ongoing	Short term	Long term	Other	Total
Male	1				1
Female	2	1	1		4
Total					

Executives by gender, classification and status in current position								
Classification	Ongoing		Contract tenured		Contract 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					
Age bracket	Male	Female	Total	% of Total	Workforce benchmark
15-19					6.7
20-24					10.5
25-29					10.2
30-34		1	1	20.0	9.9
35-39		2	2	40.0	11.2
40-44					11.9
45-49		1	1	20.0	12.3
50-54					11.3
55-59					8.6
60-64	1		1	20.0	5.0
65 +					2.4
Total	1	4	5	100.0	100.0

Aboriginal and/or Torres Strait Islander employees				
Male	Female	Total	% of Total	Workforce benchmark
		nil	0	2

Cultural and linguistic diversity					
	Male	Female	Total	% of agency	SA community
Number of employees born overseas	1		1	20	20.3
Number of employees who speak languages other than English at home				0	15.5

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

### Leave management

Average days leave taken per full time equivalent employee	
Leave type	2007-08
Sick leave	3.6 days
Family carer's leave	2.9 days
Special leave without pay	0

Employees using voluntary flexible working arrangements by gender			
	Male	Female	Total
Purchased leave			
Flexitime	1	3	4
Compressed weeks			
Part time job share			
Working from home			

### Performance development

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

### Consultants

University of SA – Forensic Psychology Research Group

### Occupational health, safety and injury management

In 2007-08 there were no incidents resulting in workplace injury.

## Financial issues

### *Revenue*

The source of revenue for the office is an allocation made for the child protection reform program and administered through the Department for Families and Communities. The revenue for 2007-08 was \$430,750

### *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.

Financial summary of expenditure			
Item	Actual	Budget	Variation
Salaries and wages	\$299,919.66	\$318,400	\$18,480.34
Goods and services	\$138,197.55	\$112,350	(\$25,847.55)
<b>Total</b>	<b>\$438,117.21</b>	<b>\$430,750</b>	<b>(\$7,367.21)</b>

## The staff team

During the 2007-08 financial year, five paid staff members and five 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 appointed to the position of Guardian in June 2004. She has 25 years work experience as an advocate for social justice and change in Australia and overseas.

### *Senior Advocate (from August 2007)*

Amanda Shaw

The Senior Advocate manages all of the individual matters that are referred to the office, attends annual reviews of children and young people under guardianship, visits children and young people in care who are in residential or secure care facilities 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. She has a passion for youth issues and is on the Policy Council of the Youth Affairs Council of South Australia.

*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 such as setting up the statistical tracking of children in motels, risk management and occupational health and safety.

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, manages the implementation of the Charter of Rights and the Monitoring Framework and provides ad hoc support and services to office staff on communications and information matters.

Prior to joining the Office in January 2006, Malcolm spent seven years working on sector development and public policy with the South Australian Council of Social Service.

*Senior Policy Officer*

Peta Smith (from April 2008)

Peta joined the office to research and draft papers on a range of topics including safe keeping orders, the participation of children and young people in decisions that affect them and methods for monitoring the wellbeing of children and young people in care.

Peta has experience as a research, records and administration officer in engineering, project management and law. She also teaches in American politics at university. Peta has gained experience in child protection issues in her research work at the Children in State Care Commission of Inquiry.

#### *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 care of the Minister. The role is designed to ensure that the voice and experience of young people who have been in the care system is incorporated wherever possible in any projects or activities undertaken by the office.

#### Mellita Kimber

Mellita is Youth Participation Project Officer for Children Youth and Women's Health Service. As well as assisting the Office of the Guardian, she serves 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 is studying law and international studies at the University of Adelaide, is heavily involved in student politics and is mentor to the Guardian's Youth Parliament team.

#### Eduard King

Eduard is still in care and he is in the process of moving 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.'

#### Rachel Hopkins

As well as being a Youth Advisor to the Guardian's Office, Rachel devotes her energies and skills to the CREATE Foundation where she assists in the office and on training programs for young people in care.

#### Sara Bann (from October 2007)

Sara combines the experience of being in a variety of care placements with some time spent working in a Families SA district centre which has given her deeper understanding of the issues facing young people in the care system.

### **Membership of external committees**

- Inter-Ministerial Committee on Child Development - Pam Simmons, Guardian
- Asia Pacific Association of Children's Commissioners - Pam Simmons, Guardian
- Across Government Guardianship Steering Committee - Pam Simmons, Guardian
- Human Resources Network - Yvette Roberts, Office Administrator



### **Learning and development**

- Developing public sector policy
- Certificate in government
- Certificate in risk management
- Records management awareness