

**Guardian for Children
and Young People**

**2006-07
Annual Report**



**Government
of South Australia**

The Hon Jay Weatherill MP
Minister for Families and Communities
GPO Box 2269
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 2007, as required under Section 52D(2) of the *Children's Protection (Miscellaneous) Amendment Act 2005*.

This report provides a summary of the activities and achievements for the 2006-07 financial year.

Yours sincerely

A handwritten signature in blue ink that reads "Pam Simmons". The signature is written in a cursive style with a large initial "P" and "S".

Pam Simmons
Guardian

5 October 2007

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Copies of this report can be obtained by writing, telephoning or emailing the Office of the Guardian for Children and Young People or from the office website. Please see details below.

GPO Box 2281
Adelaide SA 5001

DX 115

Ph 08 8226 8570

Fax 08 8226 8577

gcyp@saugov.sa.gov.au

www.gcyp.sa.gov.au

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 community-based non-government organisations.

The Office of the Guardian is an independent government agency and the Guardian reports to 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 second full year of operation of the Office of the Guardian and the first under full statutory powers and responsibilities.

We are working in an environment of growing public awareness and attention to child protection. This will result in benefits for children in making social and family settings safe and welcoming. In the short term though it has resulted in a great deal of pressure at the sharp end of child protection, in notifications of abuse, investigations and court orders for care and protection.

Progress in services for children

This past year has seen further progress in the prompt provision of public services to children in care, driven by the government's commitment to give priority access to this group of children for whom we have a special responsibility. One example is the very good news that children in care are now entitled to commence pre-school from the age of three.

There is welcome longer term planning in the provision of alternative care with the release of a plan for more diverse and individualised care for children, which started well with increased payments to carers and the introduction of other forms of care.

The commencement of an emergency accommodation strategy saw a reduction in the number of children having to be accommodated in motels and cabins. The opening of transition and post care support services, the development of an improved case management system and the review of family care meetings are all greatly encouraging. The development of a new secure custody facility, to open in 2010, provides an opportunity to get the physical environment right for young people who are in custody.

In my view there is no doubt of the intention and goodwill across government and non-government agencies to support families and protect children, including the provision of high quality care when children are removed from their immediate families. I am deeply impressed by the passion and commitment of people who work for and care for children who are at risk. This commitment is also evident in the universal and sustained home visiting program for families of newborns, and the twenty new children's centres across the state.

But there are signs of system failure and evidence of under-investment

Goodwill alone will not be enough. From my perspective as a monitor we are witnessing too few improvements in the quality of care overall¹ and an alarming growth in the numbers of children coming into care, 15% in the last year alone. I have serious doubts about the state's capacity to offer most children in care the basis for a life that other South Australian children enjoy.

1. This observation is supported by a July 2007 report from the Special Investigations Unit (Department for Families and Communities) which shows a 24 per cent increase in notifications to the Unit due to a rise in the number of concerns about quality of care.

It is a commonly held view that most children in care are adequately cared for and I have no reason to challenge this. However, we should do more in overcoming obstacles to educational attainment, providing emotional and cultural security and treatment for trauma. This is especially so for children who have been seriously damaged by abuse and who experience many home changes and no secure relationships.

The growth in numbers in care tells us that the safety net for children is there. Sadly and simply, it also tells us that intensive family supports are lacking for families in crisis, whether from drug and alcohol abuse, mental illness, disability or other causes. The choice for safeguarding a child who is at unacceptable risk of further harm seems weighted towards removal.

In the past five years the state government has made a significant additional recurrent expenditure of \$69.7 million specific to child protection and out of home care.² The problem is that much of the additional expenditure is meeting demand from the previous year.³

Other states and territories, Victoria, New South Wales, Queensland, ACT, Northern Territory and now Western Australia, have taken decisive action to invest more substantially and sensibly in both child protection and intensive family support in the expectation that this will curb the growth in numbers of children in care and provide better care to those who need it.⁴ The benefits are becoming evident in a slowing of growth in the numbers of children on care and protection orders in Victoria and New South Wales.⁵

I believe, in the foreseeable future, that we can expect growth in the numbers of children in care in the order of 8-10% per year, but not the 15% and above we have now. Unless we build the capacity now to reduce the rate of growth and prepare for what we can normally expect in growth we will continue to see children barely cared for while in state care.

2. This includes an additional \$25million per annum allocated in the 2007-08 budget. Excluded from this figure is \$7m for the universal home visiting program, \$1.5m for sex offender treatment, \$2.5m for school counsellor training, \$0.4m and \$0.23m for this Office and the Child Death and Serious Injury Review Committee respectively. The figure does include \$1.68 million provided to the Department of Health for therapeutic services. These were all funded under the *Keeping Them Safe* initiatives. This is an approximate increase of 140 per cent since 2003-04.

3. \$48.7million of the additional money allocated was for meeting budget shortfalls and staffing to meet the demand of increased numbers of children coming into care.

4. Since 2003-04, Queensland has provided a 203 per cent increase or \$369.3 million in child protection, New South Wales a \$1.2 billion increase or an extra \$240million per annum, and Victoria has invested heavily in family support services with a 164 per cent increase since 2000.

5. AIHW (2007) *Child Protection Australia 2005-06*, Table 3.5 Trends in the number of children on care and protection orders, states and territories, at 30 June 1997 to 30 June 2006.

South Australia is working from a very low base of expenditure compared with other states and territories. Our expenditure on child protection and out of home care per child (all children) in this state was \$185.50 in 2005-06, 35.4% less than the national average at \$287.11. No other state or territory spends less per child. The picture in intensive family support is starker. In 2005-06, South Australia spent the least per child at \$4.42, or 82.4% less than the national average of \$25.14. Our expenditure in this area has fallen at a yearly average of 4% since 2001-02 (in 2005-06 dollars) while the national trend is a rise of 21.7% per annum over that same period.⁶

As I write I am hearing of the impact of these serious financial constraints. Its effect is felt in the impending closure of programs that provided educational support, community services for adolescents and self-development for children in residential care. There may be other reasons for these decisions but the strong impression I have is that there is not the money to continue. Financial under-investment is also evident in the long delays in services to families and escalating problems. Despite the best efforts of staff, the focus in child protection and family services is sadly narrowed to short term intervention in crises.

Doing right by our children is a priority for the government and the commitment to early childhood services in universal programs will have benefits for all children. However, the intention to do right by our most vulnerable children will not be realised without significant increased financial investment.

Pam Simmons

What we have achieved in 2006-07

- Working with our Youth Advisers, now four, the advisory groups of young people in care and CREATE
- Additional information products for children in care
- Responding to 103 requests for assistance with individual children, 29 of which were the subject of further enquiry and advocacy
- Twenty-nine agencies are signatories to the Charter of Rights
- In Youth Parliament 2006 a team of young people in care, supported by the Office of the Guardian and CREATE, successfully prepared and proposed a bill to legislate for the rights of children in care
- The introduction of volunteer teachers in to residential care
- A doubling in the number of visitors to the website
- The release of our framework for monitoring the circumstances of children in care
- An inquiry commenced into improving educational outcomes for students under guardianship

6. Productivity Commission (2007) *Report on Government Services*, table 15A.1 State and Territory real recurrent expenditure on child protection and out of home care services.

Who we work for

We promote and protect the rights of the approximately 5 in 1000 South Australian children and young people under 18 years who are in alternative care. This includes those who are in relative or kinship care, foster care, residential care or secure custody. Priority is given to those children and young people who are the subjects of a guardianship or custody court order.

As at 30 June 2007 in South Australia there were 1,791 children and young people under the guardianship or custody of the Minister, not counting the 90 on interim or temporary orders. These 1,791 children and young people had the following characteristics:

<i>ages</i>		
	15 and over	18.4%
	10-14 years	31.0%
	5-9 years	26.9%
	2 to 4 years	16.2%
	0 to 1 years	7.6%
<i>gender</i>		
	females	47.6%
	males	52.3%
	unknown	0.1%
<i>Aboriginality</i>		
	Aboriginal	23.2%
<i>types of order</i>		
	long term care and protection order	72.5%
	12 month care and protection order	27.5%

Source: FSA Data Warehouse

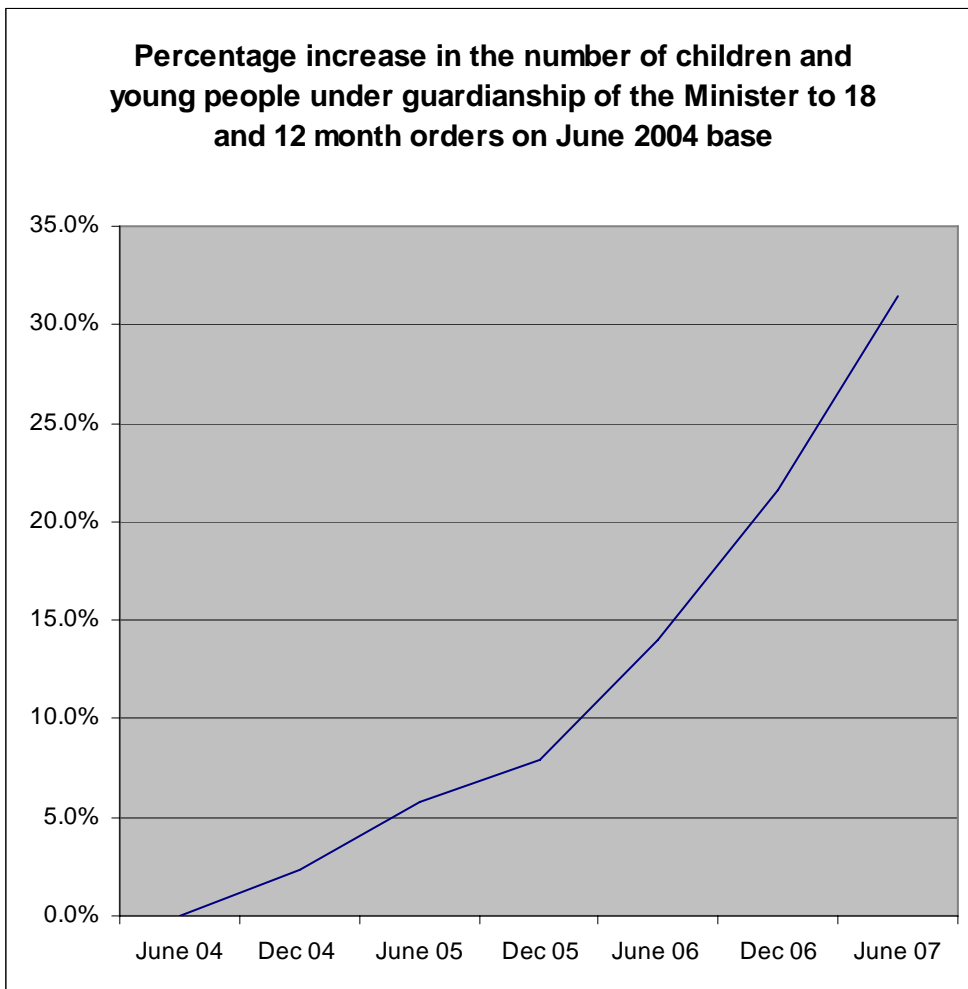
In December 2006, 8.3% of children and young people under the guardianship or custody of the Minister had a disability and were receiving services.

The 1881 children and young people who are on court orders, including temporary orders, in South Australia at June 2007 are looked after in the following care environments.

<i>care arrangements</i>		
	parents	2.2%
	relatives/kin (unpaid)	8.1%
	foster care	46.6%
	relatives/kin (paid)	26.3%
	community residential care	6.4%
	independent living	7.1%
	other/unknown (includes interim emergency accommodation)	3.4%

Source: FSA Data Warehouse

Since the formation of this office, there has been a steady growth in the number of children and young people under the custody and guardianship of the Minister in South Australia.



Functions and outcomes

The Guardian has six functions defined in section 52C of the *Children's Protection (Miscellaneous) Amendment Act 2005*.

- 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

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

The overarching function of promoting the best interests of children and young people in care is addressed here and throughout all subsequent functions reported on below.

Voice and participation of children and young people

Our goal is to ensure that all decisions that affect children in care take into account their views and are made in their best interests. We monitor progress on this through observing annual reviews, investigating individual matters, and visits to residential care units.

We attempt to model what can be achieved through our own practice. The advice from our Youth Advisers is invaluable. In 2006-07 we welcomed two additional advisers to the two appointed in the previous year. They assist the office with most projects, the selection of staff and contractors, and initiate projects of their own. The Youth Advisers do some public speaking and contribute to planning and policy advice.

Young people in care either lead or contribute to projects of the office through project advisory or focus groups. In the past year we have worked with them on ideas for educational support, legislation for a charter of rights, support for leaving care, the alternative care plan, our strategic plan and the ongoing development of 'being in care' information.

About being in care

In the previous year, 2005-06, we worked with young people in care on what they wanted to tell other children and young people in care. That year on their behalf we produced a booklet, contact cards and a social worker checklist for when children had to change placement. This year we have bought back-packs and 'rights' wristbands. We appreciate the support of social workers, carers and alternative care support workers in distributing the products.

The young people also adopted a character to represent safety, support and help to children in care. The Oog is an egg-shaped character with large eyes and large smile and is appearing in many different places now.

Advocate

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

Advocacy is planned in all of the Office's activities, closely interconnected with monitoring and investigation. The emphasis and intention in the legislation is on systemic advocacy and change. However, the Office does, in specific circumstances, advocate on behalf of individual children or young people.

Individual matters

In 2006-07 the Office received 103 requests for assistance for individual children. Of these, 29 were opened for further investigation. Because a single matter sometimes affects more than one child or young person in care, we intervened on behalf of 34 children and young people.

These are the major characteristics of the 34 children and young people at the time of referral.

<i>care arrangements</i>		
	in foster care	19
	in relative care	1
	in residential care	6
	living independently	6
	in motel-type accommodation	1
	in secure detention	1
<i>ages</i>		
	15 and over	13
	10 to 14 years	12
	5 to 9 years	7
	0 to 4 years	2
<i>gender</i>		
	females	14
	males	20
<i>Aboriginality</i>		
	Aboriginal	4
<i>types of order</i>		
	long term care and protection order	28
	12 month care and protection order	5
	youth justice order	1
<i>disability</i>		
	with some form of disability	19 ⁷

7. This includes 11 with intellectual disabilities, 7 with behavioural issues and 2 with mental health issues.

Source of referrals

Families SA social workers	9
Young people themselves	6
Foster carers	5
Educators in schools	5
Parents/guardians	1
Disability SA	1
Youth court	1

Of the 34 children, the major presenting issues were, in descending order:

Education issues	9
Families SA decision making	8
Inappropriate placement	5
Reunification practice or decisions	3
Allegations of abuse in care	2
Lack of contact with social worker	2
Mediation between Families SA and foster carers	2
Accommodation for young person with a disability	1
Transition planning for young person post 17	1
Advocacy	1

Donna

Donna, 17, has a severe intellectual disability and has lived with the same carer and her family all her life. Donna's level of disability is such that, as an adult, she will require supported accommodation but such accommodation is in short supply. The carer and her family are committed to Donna's care and were prepared for her to remain with them until suitable accommodation could be found.

A recent policy change meant that Donna's carer could continue to receive the carer's subsidy because she was still at school but the guidelines did not provide for the continuation of the special needs loading nor respite. While the carer remained committed to Donna, this loss of support would affect the carer and her own financial circumstances.

An alternative placement at this stage would cost more than the subsidy previously paid to the carer and disrupt Donna's life with the only family she had known. This Office worked with Disability SA and Families SA to work out an arrangement to jointly make up the financial shortfall for Donna's care.

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, Families SA, CREATE and the Child and Family Welfare Association (SA). It was launched in April 2006 by the Minister for Families and Communities. On the young people's behalf we have the responsibility to implement the charter. An implementation committee met throughout the year to report on progress in endorsement, distribution and compliance with the rights in Families SA, alternative care, education, health and disability services.

A team of young people supported by the Office of the Guardian and CREATE participated in Youth Parliament 2006 and successfully prepared and proposed a Bill to legislate for the rights of children in care.

From May 2006 we have invited agencies to endorse the charter. As at 30 June 2007, 29 agencies have committed to uphold the 37 rights.

In 2006-07 the following agencies endorsed the charter: ⁸

- 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

8. In 2005-06, seven agencies endorsed the Charter. They were Anglicare SA, CREATE Foundation, Anglican Community Care, Lutheran Community Care, Uniting Care Wesley Port Pirie, Centacare Catholic Family Services and the Office for Youth. At 30 September 2007 the number of endorsees had grown to 41.

Educational support

It is widely acknowledged that children and young people in care are highly disadvantaged in achieving a good education. This does not mean they are not capable, nor that individual educators and carers do not support them. It does mean that we can do more to overcome the significant obstacles the students face with recovering from trauma, changing schools, and early neglect.

In February 2007 we commenced an investigation into improving educational outcomes for students in care. The Office engaged Ms Julie White and Ms Helen Lindstrom to investigate what was available now for children in care and prepare an 'ideas' report on additional action required to improve children's experience of school and learning. This report will be released early in 2007-08.

One of the investigation's significant findings is the success of individualised programs for students who are disengaged from school. Anecdotal evidence for the social inclusion school retention strategy that targets disengaged students under guardianship demonstrates what such programs can achieve. It is of great concern that the program will not continue.

While the investigation was underway the Office supported a trial of introducing volunteer teachers to residential care settings. The trial, which commenced in April in one residential house, linked two qualified teachers with two residents for home tutoring. The teachers worked closely with the school teachers and the residential care staff to ensure the program was well integrated with school and home. The trial is not finished but early signs demonstrate the value of one-on-one assistance. In addition to the Office of the Guardian the trial is supported by the Child and Student Wellbeing Division of the Department of Education and Children's Services, Families SA and Revise.

Policy advice

In addition to the advice provided to the Minister the Office is often asked to comment on issues or draft policies directly affecting children under guardianship or in custody. It is not possible to respond to every request. However, in 2006-07 we provided written comments on 16 issues. They were: photos and media; national standards for transition planning and provision of information; accommodation and personal support for people with disabilities; placement stability; post care support services; regulations for the Aboriginal Child Placement Principle; sterilization bill; alternative care draft plan; recording and tracking concerns with carers; serious repeat young offenders; relative and kinship care practice guidelines; guidelines for lawyers acting for children; regional placement panels; transitioning from care practice guidelines; reform of domestic violence laws; and implementation of the alternative care plan.

Public speaking and communication

The Guardian and other staff, including the youth advisers, made 23 presentations about children and young people in care to a wide range of audiences.

The Office issued four newsletters, four electronic bulletins, three information papers, five opinion pieces and four submissions. In 2006-07, visitors to the website averaged 175 per month.

Monitor

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

At present the Guardian undertakes the following activities to monitor the circumstances of children and young people in care:

- Receipt of aggregate data available from Families SA (twice a year)
- Attendance at annual reviews (approximately 2.5% of children in care)
- Enquiries lodged at the Guardian's office (approximately 6.5% of children in care)
- Visits to residential care units (two units per month)
- Review of records in secure youth training centres (twice a year)
- Field consultation with service providers (annual)
- Feedback received from other monitoring bodies

These are all important sources of information and we are able to form strong impressions about systemic strengths and weaknesses. We will continue to advocate on the basis of what we learn from these activities. However, it is inadequate to fulfilling the function.

Monitoring framework

The Guardian's role in monitoring is to look at life from the child and young person's perspective to determine if they have a lifestyle expected by most children in South Australia. A framework was developed in 2006-07, in consultation with the agencies most directly affected, to provide the Office with direction now and in the future as resources become available. The framework is underpinned by the *Charter of Rights* which provides the standards deemed acceptable by children and young people.

Aggregate data

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

- An increase of 35.1% in the numbers of children on 12 month and 'to 18' guardianship orders from 1362 in June 2004 to 1791 in June 2007 and an increase in 2006-07 of 15.4%
- The rise in the number of children living with relatives or kin in a paid formal arrangement, from 14.6% in June 2005 to 26.3% in June 2007.
- The fluctuation in the numbers of children living in residential care, including family group homes, from 85 (June 2005) through 140 (June 2006) to 120 (June 2007).
- An increase in the proportion of Aboriginal children placed with Aboriginal and Torres Strait Islander relatives from 27.6% in June 2005 to 34.6% in June 2007 while the number placed with non-Indigenous relatives declined from 44.4 % to 33.6% in the same period.⁹

9. This data does not reflect the hierarchy or the definitions used in the Aboriginal Child Placement Principle for the placement of Aboriginal children and young people in alternative care by Families SA.

- The proportion of children entering care at age 0 to 1 grew from 31.0% in 2004-05 to 35.4% in 2006-07. Numbers entering care in this age group had been stable from 2001-02 (137) through 2005-06 (135) with an increase in 2006-07 (177).
- The proportion of children on 12 month and 'to 18' guardianship orders who are Aboriginal grew slightly from 19.8% in December 2004 to 23.2% in June 2007.
- The number of children and young people in emergency placements in motels, cabins and apartments grew from 36 (median stay 64 days) at 30 June 2006 to a peak of 86 (median stay 76 days) on 1 May 2007 and declined to 67 (median stay 136 days) at 30 June 2007.

Audit of annual reviews

It is a legislative requirement that there will be a review at least once a year of the circumstances of each child under the guardianship of the Minister until the child attains 18 years of age (*Children's Protection Act, 1993* Section 52 (1)). The review panel must consider whether the existing arrangements for the care and protection of the child continue to be in the best interests of the child.

The purposes of the Office of the Guardian's participation in, and audit of, the annual reviews are to provide further external accountability on the panel and scrutiny of practice, to advocate for improved outcomes for children and monitor the quality of review and relationship.

In 2006-07 the Senior Project Officer audited 42 annual reviews at seven Families SA District Centres. This is 3.5% of the total number of reviews that were to be conducted.¹⁰

A summary report on the audit is provided to the Minister annually. The major findings for 2006-07 were:

- The audit highlighted some excellent case work practice by social workers with strong relationships with children.
- There is considerable work to be done on improving the participation of children in case decisions and in reviews.
- With a few exceptions, annual reviews remain an internal process with little engagement of children, carers and other agencies.
- The audit demonstrated the social isolation of a significant number of children and young people in care.

Residential care

Families SA has six residential care units and ten transitional accommodation houses. In 2006-07 the Senior Project Officer made 17 visits to ten 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.

10. The previous page records 2.5% because this is the percentage of total children in care, not just those on long-term guardianship orders.

Secure custody

At this point in time our monitoring of conditions in the secure youth training facilities is limited to a six-monthly review of records relevant to safety. A report on our findings is first discussed with Families SA management and then reported to the Minister. The commencement of monitoring coincides with a period of significant internal review of procedures and practice in the secure youth training centres. There has been a high level of cooperation and goodwill from senior management in addressing any concerns. There is also generally a high level of commitment from secure youth training centre staff to the care of the young people.

Major findings or recommendations in the past year have been:

- The physical infrastructure of the Magill Secure Youth Training Centre falls well below national standards for youth detention facilities. The State Government announced in September 2006 that the centre would be replaced.
- There is no consistent record of complaints or promotion of the process. From January 2007 Families SA has introduced and promoted a complaints policy.
- Incident reports should include a written record of the young person's account of the incident.
- A second perimeter fence should be constructed outside the girls' unit at Magill Secure Youth Training Centre to allow the young women access to a private lawn area adjacent to the unit. This is now underway.
- The number of critical incidents and use of restraint in the Magill centre was unacceptably high. This is reported to have since been addressed and is to be confirmed in 2007-08.
- The records on the use and monitoring of the detention room (solitary confinement) were highly inadequate in Magill with a large number of reports missing or incomplete. This is partly explained by the lack of electronic monitoring that is available in more modern facilities. This has also now been addressed.

Field consultation

The purpose of the annual field consultation is to hear from case workers and others their views on how well the care system works for children and young people. A report is prepared for the Minister at the conclusion of the consultation. Reported here are the conclusions made in December 2006.

The ongoing positive impact of the *Keeping Them Safe* reform program and the associated *Rapid Response* commitment is evident in reports of improved access to services such as therapy, housing assistance, disability services and vocational training. It is also evident in enhanced cooperation between agencies and workers in health, education and family welfare. The introduction of the Individual Education Plans has led to improved cooperation between schools and Families SA district centres.

Reports of new cooperation between Families SA, non-government agencies and carers is a promising start to the big job ahead in planning and implementing significant change in alternative care.

There is work to be done in clarifying the responsibility social workers have in developing and maintaining Aboriginal community connection and assisting them to do so. Similarly there is slow progress overall in involving children and young people in decisions about their lives.

The picture of the effectiveness and use of reunification services is unclear. However it is clear that workers struggle to find family preservation and support services.

Advise

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 need are being met.

In addition to regular meetings with the Minister the Guardian prepares six written reports in the year covering activities of the Office, case studies and matters for discussion or noting. The more significant matters that were raised follow.

Magill Secure Youth Training Centre

As reported above, I had recommended the immediate replacement of the Magill Secure Youth Training Centre. The facility is highly inadequate to its task of safe custody and rehabilitation of young offenders and is in violation of national and international rules and standards. In September 2006 the State Government committed \$79 million in a private finance initiative for the development of a new 90 place secure youth training centre, replacing the Cavan and Magill centres. The facility is expected to open in 2010.

Educational support

The Office has taken a keen interest in promoting improvements in educational outcomes for students in care. The introduction of Individual Education Plans in 2006 has been well supported by the Department of Education and Children's Services and Families SA. Two issues were pursued in the past year. The first was a reported under-expenditure in South Australia of the Commonwealth's Children in Residential Care fund. This was rectified by the start of 2007. The second was the scheduled end of the Social Inclusion School Retention Strategy and Action Plan in June 2007. One important strategy was specific to young people in care who were disengaged from school. The anecdotal evidence was that the program had been successful and there was nothing of its kind to replace it in 2007. The program is being evaluated at present and if it demonstrates effectiveness I hope to see the strategy continue in full.

Accommodation for children with disabilities

In June 2006 the Department for Families and Communities issued a consultation paper on accommodation and personal support for people with disabilities. In sum, the following comments were made in response to this paper and in preceding advice to the Minister:

- The sometime delay and disagreement between Families SA and Disability SA about primary case management responsibility resulted in children or young people in care missing out on vital services or in unnecessary lengthy waits. This has since been addressed with the introduction of a protocol between the two agencies.
- The need for flexible application of eligibility criteria for personal support services for children in care. Disability SA has now adopted this as part of its Rapid Response commitment.

- The need for a wider range of accommodation options for children under guardianship with disabilities such as, improved assistance to relative and foster carers including access to 24 hour phone advice, introduction of therapeutic foster care, congregate care for 2-4 young people where family-based care is not possible and cluster housing for young people who need low level support.

Aboriginal Child Placement Principle and stability

There are two important, and sometimes conflicting, principles in legislation of stability for children in care and the significance of Aboriginal cultural identity. There is heightened anxiety and tension among practitioners about the relative weight to be given to the dual imperatives when the care is being provided by a non-Aboriginal carer. The number of children this affects should decrease over time as more effort is made in locating kinship carers. In the meantime though there is need for greater understanding and help among practitioners about how such decisions are best made, what is taken into account and what the range of options are to meet the Aboriginal Child Placement Principle. These matters are still in discussion, primarily with Families SA.

Refugee children

Following discussion with the Families SA Refugee Program the Minister was advised of three emerging issues:

- The guardianship status of children who arrive in the care of a near relative can be uncertain and problems emerge when the care arrangement breaks down. Their status as 'wards' or 'non-wards' is also significant to the length of time the Commonwealth is prepared to fund services.
- The Families SA refugee program provides a defined range of services and for a limited time. In order for recently arrived refugees to access other services from the Department for Families and Communities priority should be given to building the competence of staff in working with children and adults from new communities.
- Newly established communities will face child protection issues that will require a different relationship with government than that of meeting immediate settlement needs. This provides an opportunity to engage communities early in taking responsibility for child protection and intervention.

Review of domestic violence laws

The State Government has asked Ms Maurine Pyke QC to review the domestic violence laws in South Australia. Ms Pyke issued a discussion paper in March 2007. In response to the paper and in preceding advice to the Minister we provided comments on the laws and options for reform as they affected children and young people. This was prepared in consultation with eight experts in the area.

In general we sought to strengthen the laws to better take into account the impact on children of exposure to domestic violence, the child's right to apply for restraining orders on their own behalf and improved protection from distressing exposure in court to the defendant and to forceful questioning. Recommendations were also made in relation to young people who were the subject of restraining orders.

Children in motels

In January 2006 we had made seven recommendations to Families SA (then Children, Youth and Family Services) for improving the quality of care to children accommodated in motels. All are agreed that accommodating children in motels is inappropriate but while demand exceeds supply of other placements there is no choice.

A progress report was written in January 2007 and provided to the Minister. While our early concerns about laxity in the arrangements with the commercial care providers had been addressed we remained concerned about the high number of children in motels and rented apartments, the length of stay for a significant number of children and the quality of care. At the time of the written report an emergency accommodation strategy had just commenced. This has had some impact on the numbers in motels, from a high of 86 on 1 May 2007 to 67 at 30 June 2007. The core of the problem remains though in the 15.4% rise in the number of children in care in 2006-07 alone.

Progress is evident in the emergency accommodation strategy which engages not-for-profit agencies in expansion of placement choices and in the release of an alternative care action plan. However, the additional funding provided in the 2007-08 budget will barely provide for the 2006-07 growth in required places.

In my view, motel type accommodation will continue to form a small part of the alternative care system in the immediate future. I hope I am wrong. If this proves to be the case, three conditions are necessary: that it firmly remains an option of last resort; that good quality care is provided; and the length of stay is minimised.

Legislation for rights of children in care

Following the release of the *Charter of Rights*, the high level of support for the charter and the preparation of a draft Bill by the Youth Parliament team to legislate for the rights of children in care, the Office prepared information for the Minister on options for legislation. Four states in Australia now protect the rights of children in care by specific legislation.

The recommendation was that the *Children's Protection Act 1993* be amended to give the Minister the power and obligation to create and disseminate a charter of rights for children and young people in care. The amended Act would contain clauses to ensure that children and young people in care are engaged in its creation and that designated agencies and authorised carers have an obligation to uphold the rights conferred by the Charter.

Youth justice proposed legislative changes

In response to an invitation to comment on issues about repeat young offenders the Guardian prepared a written submission to the Commissioner for Social Inclusion. The submission was provided in advance to the Minister. In sum, I am deeply concerned at proposed legislative changes which, while not yet detailed, adopt a more punitive approach to young people who offend. The measures may include anti-social behaviour orders, mandatory sentencing for auto crimes, higher rate of refusal of bail, fast-tracking repeat offenders through the justice process and treating juveniles as adults for designated offences. The argument for a more punitive approach to young people who offend is not supported by the evidence.

I am equally concerned that young people who repeatedly offend are not served well in rehabilitation. At June 2007 some of the few services available are under threat of closure. It is distressing to witness more young people in custodial facilities with fewer rehabilitation services on release. This can only result in more crime and a growing prison population.

Peter

Peter, 3, had lived with his carer since he was six months old. His mother had a serious mental illness and Peter was removed from her care because of abuse and neglect. At the time of his removal, little was known about Peter's father or his whereabouts. Subsequently, Peter's father re-appeared and sought regular access visits with his son. Families SA made plans to reunify Peter with his father, the father's new partner and their two children.

A Families SA psychologist had recommended against reunification because of Peter's significant attachment to his current carer and the trauma that reunification would cause to him at this critical stage in his development. The psychologist recommended that regular contact with his father should continue.

This Office supported this recommendation and suggested that the social worker apply for a long term order which would allow Peter's father to maintain a relationship but retain Peter's long-term carer as his primary carer. As the relationship with his father grows Peter will be able to spend more time with him. This will be at Peter's pace rather than the pace determined by the expiry of a court order.

Inquire

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

In addition to the advice provided as above, all of which required investigation to a greater or lesser degree, the Office undertook one major inquiry in 2006-07.

Improving educational outcomes

Data sharing between the Department of Education and Children's Services and Families SA has demonstrated that the cohort of students under guardianship are the most disadvantaged group of students and significantly behind in literacy and numeracy skills as a whole.

To address this, the Government has introduced Individual Education Plans for all students under guardianship and, until mid-2007, had supported a strategy of school retention specific to young people who were most disengaged.

The purpose of our inquiry is to support these developments by introducing other ideas that could be implemented and to engage educators, social workers, carers and policy staff in thinking about how things could be done differently in their own setting.

The Office engaged a social worker and an educator, Ms Julie White and Ms Helen Lindstrom, to conduct the inquiry. As at the end of June 2007 the report was being prepared. It is expected to be released early in 2007-08.

Marion

Marion, 5, had some difficulties with learning and fitting in with routines at school. She was shy and easily distracted but generally responded positively to individual support and attention.

Disability SA contacted the Office. They had been involved with Marion for nearly three years during which time they believed they had developed a strong understanding of her needs.

Disability SA and the principal of the kindergarten at which she had been enrolled said that Marion would be best catered for in a small class attached to a mainstream school while the Department of Education and Children's Services (DECS) recommended a mainstream classroom. Disability SA and DECS were unable to reconcile their positions over what was in Marion's best interests.

This Office convened a meeting between the Disability Services Coordinator for the DECS region, the principal of the new school, Disability SA, Families SA and Marion's carer. It was agreed that Marion will attend the mainstream school, but there will be appropriate supports in place including the option to attend the kindergarten next door for respite from the rigours of mainstream education.

A recent report states that Marion is making modest progress and that her peer relations are improving. The report identifies a range of ongoing issues and a cooperative approach by DECS and Disability SA staff to addressing them.

Investigate

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

There were no systemic matters referred to the Guardian by the Minister. The Office did investigate and report on one individual matter at the request of 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* 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, 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.

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 2006-07.

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.

Freedom of information

In 2005-06, the *Children's Protection (Miscellaneous) Amendment Act 2005*, which allows for the appointment of the Guardian, was enacted. 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 2006-07.

Strategic and organisational planning

The Office commenced a comprehensive strategic planning exercise in April 2007. Extensive input was collected from stakeholders including the Minister and young people in care, foster carers and representatives of government and non-government organisations. The strategic plan will be available 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.

Management of human resources

EMPLOYEE NUMBERS, GENDER AND STATUS											
Total number of employees											
Persons			5								
FTEs			3.3								
Gender		% Persons		% FTEs							
Male		20		23.5							
Female		80		76.5							
Number of persons during 2006/07											
Separated from agency			2								
Recruited to agency			0								
Number of persons at 30 June 2007											
On Leave Without Pay			0								
Number of employees by salary bracket											
Salary bracket		Male		Female		Total					
\$0 - \$43,999						0					
\$44,000 - \$56,999		1		1		2					
\$57,000 - \$72,999				2		2					
\$73,000 - \$91,999						0					
\$92,000 +				1		1					
Total		1		4		5					
Status of employees in current position											
Persons		Ongoing		Short term contract		Long term contract		Other (Casual)		Total	
Male		1								1	
Female		2		1		1				4	
Total		3		1		1				5	

Executives by gender, classification and status in current position								
Classification	Ongoing		Contract tenured		Contract untenured		Total	
	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					7.9
20-24					10.7
25-29					9.8
30-34		1	1	20	10.5
35-39					11.4
40-44		1	1	20	12.4
45-49		1	1	20	12.4
50-54		1	1	20	10.9
55-59	1		1	20	8.3
60-64					4.4
65 +					1.3
Total	1	4	100.0	100.0	100.0

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

Cultural and linguistic diversity					
	Male	Female	Total	% of agency	SA community
Number of employees born overseas	1	1	2	40	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
		0	0

Leave management

Average days leave taken per full time equivalent employee	
Leave type	2006-07
Sick leave	3.64
Family carer's leave	3.03
Special leave without pay	0

Voluntary flexible working arrangements

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

During 2006-07, there were no consultants engaged.

Occupational health, safety and injury management

In 2006-07, 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 2006-07 was \$435,200.

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. Full financial reports are therefore 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	\$269,692.38	\$285,400	\$15,707.62
Goods and services	\$143,108.38	\$149,800	\$6,691.62
Total	\$411,439.18	\$435,200	\$23,760.82

The staff team

During the 2006-2007 financial year, five paid staff members and four unpaid youth advisers 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 Project Officer

Angela Andary

The Senior Project Officer manages some of the projects within the Office and all of the individual matters that are referred to the office, attends annual reviews of children and young people under guardianship and facilitates some of the consultations with children and young people.

Angela has had considerable experience in the health and welfare sector beginning in the Department for Community Welfare (now Families SA) some 20 years ago. More recently Angela worked at the Office of the Public Advocate advocating for the rights of people with a mental incapacity.

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 and the procurement of special items for the Being in Care project.

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

The Project Officer – Communications researches and writes materials for publications, edits and designs materials for electronic and paper communications, collects and maintains statistical information on the target group and provides ad hoc support and services to office staff on communications and information matters.

Malcolm has had over 20 years advocacy and management experience in the community sector, notably in the disability and employment fields. Prior to joining the Office in January 2006, he spent seven years working on sector development and public policy with SACOSS.

Project Officer

Stephanie Lewis (to December 2006)

A temporary part time (0.4fte) Project Officer position was created to undertake developmental work on the establishment of a services bank for children under the care of the Minister. Subsequently, Stephanie contributed to other key projects in the Office, notably the implementation of the Charter of Rights for Children and Young People in Care.

Stephanie has worked in the community sector in community information and in the public sector in community legal education and project work for over ten years. Her substantive position is as Senior Project Officer, Family Home Visiting implementation team, Children, Youth and Women's Health Service.

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

As well as assisting the Office of the Guardian, Mellita serves on the Council for the Care of Children and 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. He attends high school where his favourite subject is PE. 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.

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

The following training has been provided to staff:

- Risk management (all staff)
- Career planning (two staff)
- Developing public sector policy (one staff member)
- Business Continuity Management training (two staff)