

**Office of the  
Guardian for  
Children and  
Young People**

# **Annual Report 2004 -2005**



*Annual Report 2004-2005*

Office of the Guardian for Children and Young People

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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 first annual report of the Office of the Guardian for Children and Young People for the year ended 30 June 2005.

This report provides a summary of the activities and achievements for the 2004-05 financial year.

Although not required yet by legislation I recommend that the report be made available to the public.

Yours sincerely

A handwritten signature in blue ink that reads "Pam". The letter "P" is large and stylized, with a long horizontal stroke that loops back under the "am".

Pam Simmons  
Guardian

A handwritten signature in blue ink that reads "Simmons". The letters are written in a cursive, flowing style.

30 September 2005

# What we do

The Office of the Guardian for Children and Young People promotes the best interests and rights of all children and young people in out of home care.

The Guardian was appointed by the Governor on 3 June 2004. The office opened on 23 August 2004.

Our aim is to work with others to improve services to children and young people in care, promote and protect their rights and to strengthen their voice. To do this we work 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 organisation that reports to the Minister for Families and Communities.

At the time of writing, the legislation for the appointment of the Guardian and to define the statutory functions of the Office is before the South Australian Parliament.

## Functions

The Cabinet direction of May 2005 records the functions of the Office of the Guardian as to:

- Promote the best interests of all children and young people in out of home care.
- Ensure the rights of children and young people in out of home care are safeguarded and promoted.
- To receive representations from children and young people (and their advocates) under the guardianship of the Minister or in custody of the Minister in relation to their care and healthy development.
- To monitor, audit and review both the handling of cases of children and young people under the guardianship of the Minister or in custody of the Minister and the systems, policies and practices related to their care.

- To undertake or seek the initiation of inquiries into systemic issues related to the care of children and young people under the guardianship or custody of the Minister for Families and Communities.
- Monitor the quality of care in designated agencies (*Families and Communities Act 1972*) and examine care arrangements in government and non government sectors.
- Promote the participation of children and young people under the guardianship of, or custody of, the Minister in matters that affect them, including the matters of the Guardian.

We report against these functions in this annual report.

## What we believe and value

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

The staff of the Office share the following **values** in our work:

- We are committed to fundamental rights of children and young people including participation, non-discrimination, healthy development and decisions being made in their best interests.
- We will behave ethically, with integrity, be decisive and clear.
- We will be courageous in promoting the rights of children and young people in care.
- We are respectful of the people we work with and will be considerate towards all people who contact us.
- We involve children and young people in our decisions and activities.

# The year in review — Establishing the Office

The 2004-05 year was the establishment year for the Office of the Guardian for Children and Young People. Typical of the requirements of establishment are introductions to people with an interest and expertise in the field, early office processes and policies, turning written functions into practice, communication about the activities and securing legal and policy mandates for carrying out the functions.

The Office was underway in late August 2004 with considerable support from the Department for Families and Communities. The establishment of this Office was part of a broader child protection reform program of the State Government called *Keeping Them Safe*. This provided many opportunities and heightened optimism about progress in the child and family welfare area. It also of course created its challenges to the many people who were working in child welfare, with expectations about rapid results and improved outcomes flying ahead of implementation.

Accompanying the additional resources in child protection are improved accountability measures, including the appointment of the Guardian. Some have argued that monitoring quality of service should lag behind expenditure on service improvement so that the effectiveness of the reform is reported on rather than the already acknowledged weaknesses.

This view has, to some extent, influenced the early operations of the Office, in what we believe to be a positive way. We have given higher priority to the functions of the Office that promote good practice, support the work already underway and emphasise cooperation and collaboration. This has no doubt disappointed others who expected a superior surveillance and interventionist organisation.

The priorities for the Office in the first year were to:

- Establish our presence and define and inform on our role
- Identify gaps in monitoring, investigation and advocacy
- Contribute to meeting those gaps while maintaining a focus on systemic change
- Establish an accessible office, sound record systems and policies and procedures.

## Define and inform on our role

The Guardian was appointed ahead of the legislation to establish the Office. This enabled a more fluid and responsive gestation. In March 2003, in response to a concerted call for an independent office to represent children's interests, Robyn Layton QC in her report on the review of the child protection system recommended the appointment of a Guardian, among other statutory changes.

The appointment was made in June 2004 and the first functions of the Office were agreed and announced. In May 2005 refined functions were formally endorsed by Cabinet and formed the basis for the proposed statutory functions yet to be accepted by Parliament. The functions confer three primary roles: monitoring the quality of care provided to children and young people in out of home care, investigating significant matters of concern and advocating for resolution of these matters.

## Identifying gaps

We embarked on a consultation exercise in conjunction with informing on our role and meeting people. It was through this consultation that we informed ourselves about the major gaps and service issues. This first round of consultation of over 90 workshops and interviews produced a solid base of information from which we could identify what was most pressing and what we could influence. The consultation also shaped how we would conduct our business with other agencies in the field.



### Meeting those gaps

From the pressing issues and gaps identified we selected those that we could more immediately have a positive impact on and those we would need an ongoing role in.

The priority areas and projects selected for 2004-05 were:

#### Monitoring

##### *Audits of annual reviews*

One means by which the Office monitors the quality of care is through attendance at annual reviews of case directions and progress for children under long-term guardianship. The Office attends at least six reviews each quarter. This commenced in April 2005. The priorities for audit in 2005 are the voice of the child, priority access to services and interagency collaboration.

##### *Development of profile*

Data on the population group of children and young people in care is scattered and not readily accessible. Together with Children Youth and Family Services and the universities we aim to deepen our knowledge of the group of children and young people under guardianship and in out of home care and use trend data to monitor the effectiveness of reforms.

#### Investigation

##### *Preventing sexual abuse in care*

The aim of this project was to investigate what further measures are required to prevent sexual abuse in care and to report this to the Commission of Inquiry Children in State Care.

##### *Individual matters*

The Office has a 'trouble-shooting' role on individual matters that have not been resolved through other means.

#### Advocacy

##### *Charter of rights*

The charter will inform children and young people in out of home care of their rights and how to have violations addressed.

##### *Entry into care information*

The aim of this project is to provide essential information to children and young people when they first enter out of home care.

##### *Services bank*

This project is to establish and promote a register of public and private services available with preferential access to children and young people under guardianship or previously under guardianship.

#### Accessible and efficient office

Our move to level 4, 50 Grenfell Street in August 2005 meets our aim of an office that is physically accessible and welcoming to children and young people. Access is also available through phone, email, mail, website and outreach services. We have operated this year without the benefit of an electronic database resulting in some limitations to reporting. A database will be installed in mid 2005-06. Essential operating policies have been prepared and a protocol for exchange of information between Children Youth and Family Services and this Office has been agreed.

# Objectives and Outcomes

In this section we report on our activities and outcomes against the functions of the Office, as defined in the Cabinet directive of May 2005.

## **Promote the best interests of all children and young people in out of home care**

The overarching function of promoting best interests is addressed through all subsequent functions reported on below.

The communication system of the Office is one means for the promotion of the interests of children and young people in care. The target users of the website are children in care and it holds fundamental information for them. The electronic quarterly newsletter is prepared for other stakeholders and raises some of the issues that impinge on respecting and acting on the best interests of children.

Forty-one formal presentations were made by the Guardian and the Senior Project Officer in 2004-05 with approximately 1,670 participants. Such presentations are an opportunity to talk about putting the rights and best interests of children and young people first in decisions that affect them.

## **Ensure the rights of children and young people in out of home care are safeguarded and promoted**

A charter of rights for children and young people in care is being developed by this Office together with children and young people, alternative care agencies and carers, and Children Youth and Family Services. Many others were engaged in the consultation. The charter is due to be completed by November 2005. In the meantime there is a 1997 *Commitments in Care* which records commitments made by out of home care agencies to the children in their care. This is a valuable document to which we refer in our advocacy work.

The Office website prominently displays key rights from the United Nations *Convention on the Rights of the Child* to which Australia is a signatory. Public

presentations made by the Office have included reference to these rights.

In the early days of consultation it became clear that there were significant deficiencies in the provision of information to children and young people in care and that there were few resources available to them and their carers about their care experience. Essential information about their rights, who to go to for help and how to complain were largely missing. In February and March 2005 the Office conducted an investigation into how best to provide essential information to children, particularly when they first enter care. The report from the investigation will provide instruction for the second stage of production of materials to be completed in 2005-06.

Following an approach by the Create Foundation, the Office of the Guardian convened a meeting between Create, the Special Investigations Unit (Department for Families and Communities) and Children Youth and Family Services to clarify and reach agreement on support for and involvement of children and young people in special investigations into alleged abuses in care.

## **To receive representations from children and young people (and their advocates) under the guardianship of the Minister or in custody of the Minister in relation to their care and healthy development**

In the nine month period of operation in 2004-05 we received 54 representations on behalf of 77 children in out of home care. Without the aid of an electronic database we are unable to report adequately on this function. This will be improved in the 2005-06 annual report.



### **To monitor, audit and review both the handling of cases of children and young people under the guardianship of the Minister or in custody of the Minister and the systems, policies and practices related to their care**

The Office's capacity to monitor systematically is limited by the small number of Office staff. However we have commenced monitoring annual reviews of children under long term guardianship orders and the implementation of Rapid Response, the Government's commitment to providing priority service to children in the care of the state.

The Office attends a minimum of six annual reviews each quarter for the purpose of auditing the quality of such reviews and identifying practice issues. This commenced in April 2005. The priorities for audit in this first year are the voice of the child, inter-agency collaboration and priority access to services. It is too early to report on the quality of reviews but the Office reported first impressions to the Minister. We noted a great willingness on the part of the CYFS District Centres to conduct the reviews thoroughly and to seek some independence in the process. The significance of placement stability and support was evident as is building resilience in the child or young person.

The monitoring of the implementation of Rapid Response is conducted through attending annual reviews and in meetings with social workers and carers. There are sure signs of improvement in access to the most important services, partly as a result of the Rapid Response commitment and partly following the injection of additional resources through the *Keeping Them Safe* policy. Not unexpectedly, the more significant gaps occur in the provision of services to children in rural and remote regions.

Following consultation, the Office provided written advice to the Minister on legislative reform. Many of the recommended changes were reflected in the *Children's Protection (Keeping Them Safe) Amendment*

*Bill 2005*. Some recommended changes require further debate and were not included. The Office also wrote a response to the Bill when it was released.

Again, on the basis of issues raised in consultation, the Office recommended a meeting between the executive team of Children Youth and Family Services and the manager of the Care and Protection Unit of the Youth Court. The consultation had provided evidence of preventable instability for children in drawn out court proceedings. There was a wide range of views on the main causes of delays to a firm decision, with frustration expressed on both the Courts and CYFS parts about what is expected, quality of practice and capacity for intervention. The meeting resulted in agreement for improved communication and some minor changes to practice.

The Office has also undertaken to prepare and add to the information available on the group of children and young people who are under the guardianship of the Minister, that is, to develop a profile. Some of this data will serve as baseline information from which changes will be tracked. In this way we hope in the future to be able to monitor and report on the impact of child protection reforms as evidenced in changes to major indicators such as numbers of children, numbers of placements, health and education status.

### **To undertake or seek the initiation of inquiries into systemic issues related to the care of children and young people under the guardianship or custody of the Minister for Families and Communities**

Three systemic issues dominated our investigation work this past year: the youth justice system, children in motels, and preventing sexual abuse in care.

In November 2004 the Guardian made an oral submission to the *Parliamentary Select Committee on the Youth Justice System*, following consultation with experts in the field. The Committee report was tabled on 4 July 2005 and the key issues and



recommendations made by the Office were reflected or adopted in the Report.

The first individual matter investigated by the Office alerted us to systemic weaknesses in the arrangements made for the care of children and young people in temporary accommodation. As a result of further investigation the Office provided recommendations to the Minister and subsequently to the Department for Families and Communities to address the most significant problems. These were negotiated over the year and most have been adopted.

The third systemic investigation was on preventing sexual abuse in care, linked to reporting to the *Commission of Inquiry Children in State Care*. Following consultation with experts in this area the Office prepared a written submission to the Minister as advice, to be forwarded to the Commissioner. The recommendations in the submission will be negotiated first with the Department for Families and Communities.

**Monitor the quality of care in designated agencies (*Families and Communities Act 1972*) and examine care arrangements in government and non government sectors**

The systemic investigation and subsequent recommendations for the care of children in temporary accommodation followed a referral to the Office. The Office now receives a fortnightly report on children placed in inappropriate temporary accommodation and has worked with Children Youth and Family Services in promoting alternatives.

Also in cooperation with Children Youth and Family Services and the Child and Family Welfare Association (SA) preliminary work has commenced on an alternative care strategic plan. This follows acknowledged weaknesses in planning for a coordinated, well supported and more diverse alternative care system.

In the early round of meetings with agencies many expressed concern that the Aboriginal Child Placement Principle is being interpreted in its narrowest sense of placement with too little regard to its other elements such as family preservation, placement support, cultural maintenance and family reunification. There are obvious exceptions to this with some short-term projects underway which help case workers in their search and support of cultural connection. This matter requires further work.

**Promote the participation of children and young people under the guardianship of, or custody of, the Minister in matters that affect them, including the matters of the Guardian**

The Office of the Guardian has engaged two volunteer youth advisers to work with us in key service areas. They participate in the development of some projects, in the business of the Office, selection of new staff and consultants.

The Office meets regularly with the consumer organisation for children and young people in care, the Create Foundation, and we have worked together on the development of the *Charter of Rights* for Children and Young People in Care. The Charter has been drafted with the assistance of young people in care.

A proposal was prepared for the introduction of a Services Bank for children and young people in care and this will be further developed in 2005-06. The Services Bank will be a register of public and private services available to children and young people under guardianship or previously under guardianship of the Minister with preferential access or rates. The Services Bank is being developed with the leadership and involvement of young people who have been in care.

In this first year of attending annual reviews for children under guardianship one of three priorities in the audit has been on the participation of children and young people in the review process.

# Our Organisation

## The Staff Team

*The paid staff are three.*



*Pam Simmons  
Guardian*

### Guardian

**Pam Simmons** 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.



*Angela Andary  
Senior Project Officer*

### Senior Project Officer

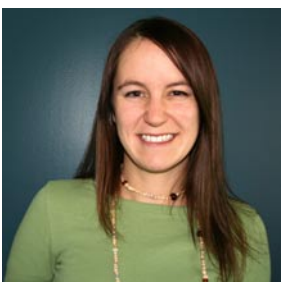
**Angela Andary** has had considerable work experience in the health and welfare sector beginning in the Department for Community Welfare (now Children Youth and Family Services) some 20 years ago. More recently Angela worked in the Office of the Public Advocate advocating for the rights of people with a mental incapacity.



*Jan Buczko  
Office Administrator*

### Office Administrator

**Jan Buczko** has held public sector positions in Aboriginal health and mental health. Prior to this Jan was involved for a number of years in the entertainment industry in all facets of event and venue management.



*Mellita Kimber  
Youth Advisor*

### Youth Advisor

**Mellita Kimber** assists the Office on a part-time basis. The rest of her week is spent working as an assistant to the Director of the Chief Executive's Office in the Department of Health.



*David Wilkins  
Youth Advisor*

### Youth Advisor

**David Wilkins** assists the Office on a part-time basis. He is a first-year law and international studies undergraduate student at the University of Adelaide.

## Location

From August 2004 – July 2005 we were accommodated in temporary offices provided by the SA Housing Trust, Department for Families and Communities at level one West, Riverside Centre, North Terrace, Adelaide.

Our office hours are  
Monday to Friday 9.00am – 5.00pm.

## Access

The new office at level four, 50 Grenfell Street has been designed for wheelchair access and, within workplace imperatives, for children. Other access improvements will be made in 2005-06.

The website is designed for children and young people in care and has a 'kids only' section. It complies with Web Content Accessibility Guidelines 1.0. ([www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/checkpoint-list](http://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/checkpoint-list)).

## Membership of external committees

*Inter-Ministerial Committee on Care and Protection of Children*

Pam Simmons, Guardian

*Across Government Guardianship Steering Committee*

Pam Simmons, Guardian

*Alternative Care Standards Implementation Group*

Angela Andary, Senior Project Officer

*Certainty in Care for Children Committee*

Angela Andary, Senior Project Officer

*Human Resources Network*

Jan Buczko, Office Administrator

*Occupational Health and Safety Committee*

Jan Buczko, Office Administrator

*DFC Branding Committee*

Jan Buczko, Office Administrator

## Complaints

A complaints policy for the Office has been prepared with an accompanying guide to the public. This is available from our website and is provided when someone complains about our service.

There have been no complaints made to us about our service in 2004-05.

## Learning and development

The following training has been provided to staff:

- CYFS Induction Training: Overview of Legal Context (one)
- Occupational Health and Safety Floor Audit (one)
- Introduction to Attachment Theory (three)
- Dealing with unreasonable expectations from clients (three)
- Introduction to cultural competency (three)
- Website maintenance (one)

Staff also attended the following conferences/seminars/workshops:

- ISPCAN 15<sup>th</sup> International Congress on Child Abuse and Neglect, Brisbane
- Uniting Care National Conference, Adelaide

## Occupational health and safety

The Office of the Guardian participated in the occupational health and safety committee for the Office for Youth at the Riverside Centre. There were no incidents of workplace injury.

## Freedom of information

Until the legislation for the appointment of the Guardian is enacted our obligations are within the requirements for the Department for Families and Communities.

The proposed legislation will exempt information about individual cases from disclosure under the *Freedom of Information Act 1991*. We will report on structure and functions, effect of function on members of the public, arrangements for public participation in policy formulation, the kinds of documents held by the agency and access arrangements.

There have been no requests under FOI to this Office during 2004-05.



### **Strategic and organisational planning**

A workplan was agreed in October 2004. A strategic plan was deferred until the establishment tasks had been completed. A meeting of stakeholders was convened in April 2005 which commenced the strategic planning process.

### **Overseas travel**

There was no overseas travel by staff for work purposes during 2004-05.

### **Energy management**

The Office of the Guardian has been a tenant of the Riverside Centre and 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.

### **Consultancies**

There was one external consultancy with total expenditure of \$6,000. This was to Kate Barnett and Associates and Julie Sloan Management for the first stage of the development of the charter of rights.

### **Office 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.

### **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 2004-05 was \$411,000.

### **Expenditure**

<b>Item</b>	<b>Actual</b>	<b>Budget</b>	<b>Variation</b>
Salaries and wages	178,205.24	183,700.00	5,494.76
Goods and services	214,794.76	227,300.00	12,505.24