

Guardian for Children  
and Young People

**2011-12**  
**Annual Report**



Government  
of South Australia

October 2012

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Office of the Guardian for Children and Young People

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The Hon Grace Portolesi MP  
Minister for Education and Child Development  
GPO Box 1152  
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Dear Minister

I am pleased to present to you the annual report of the Guardian for Children and Young Persons for the year ended 30 June 2012, 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 2011-12 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, stylized initial "P".

Pam Simmons  
Guardian

9 October 2012

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## What we do

The Office of the Guardian for Children and Young People promotes and protects the rights of all children and young people under the age of 18 years who are under court orders granting guardianship or custody to the Minister for Education and Child Development.

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

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

The Office of the Guardian is an independent government agency and the Guardian advises the Minister for Education and Child Development.

### Functions

The Guardian has six statutory functions:

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

I report against these functions in this annual report.

### **At the Office of the Guardian**

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

### **Our values**

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

## The year in review

If there is one word to describe the past year, it is *promise*. One of the key planks of the new leadership in government is *every chance for every child*. It is a powerful vision. It promises equality of opportunity and the best possible life for children and young people.

The vision means lifting the bar for all children (every chance) and narrowing the gap among children (every child). There is excitement about the ambition and the challenge, particularly in those who care deeply about children and young people who have been harmed or who struggle to keep up. The task now is to harness that energy and experience in a program of service improvement and reform.

*In child protection, we know that we cannot just do more of the same.*

The day to day work of the Guardian's Office is largely directed to children who have been removed from their immediate family because of abuse or neglect. Decisions to remove a child from their immediate family are *never* taken lightly and the Youth Court will determine whether this is the right decision. At the end of 2011-12 there were an estimated 2,620 children and young people under guardianship of the Minister and most of them will remain under guardianship until they reach their age of majority at 18.<sup>1</sup> This is an increase of almost 9 per cent in 12 months and a 35 per cent increase in the past five years. In and of itself, this is not necessarily bad news. If we had done everything we could to help the families and if we could be sure that the children would not be further harmed by moving parental responsibilities to the state, then the rise is a sign of good public policy and practice. However, I fear that this is not always the case.

We can do better by children in state care, but we can also do more to assist families who are in crisis and chronic need. Most of our activity, as documented in this annual report, is advocating for these changes and we are among many who do so.

Progress is being made. A new program to support high-need families with the care of their infants, linked to other family programs, is to commence in the northern suburbs of Adelaide in 2013. The promotion and monitoring of national out of home care standards has commenced and South Australia's expenditure on out of home care has increased 49 per cent since 2007-08.

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<sup>1</sup> At the time of completing the annual report, actual numbers of children under guardianship orders at 30 June 2012 were not available. The estimate is taken from the 2011-12 Agency Statements, Budget Paper 4. All reported increases are therefore estimates only. Confirmed data should be available in November 2012.

While expenditure *alone* is not a good indicator of how well or how poorly we are looking after children in need of protection, it is important. Both skills *and* budgets are essential to our capacity to meet goals in child protection and wellbeing. And some of the present weaknesses can be traced back decades to decisions about limiting expenditure.

The slide in expenditure on child protection and family services dates back to the mid-1990s and we have struggled to make up ground since. Compared with national averages, South Australia spends a little over half in child protection per child and just one-fifth in intensive family support services. The picture is different in out of home care expenditure which now almost matches the national average.

*If we are to make the most of the opportunity, we have to be bold.*

I witness courage every day through the work of this office, with the people who call and the responses from others, the young people who speak up and the decision-makers who listen and act.

Being bold for most of us will mean placing ourselves in the vision and using it to analyse the effectiveness of what we do and what we can do differently.

For government, being bold will mean:

Communicating the powerful vision of *every chance for every child*.

Setting targets to meet the 'every child' part of the vision with both universal care and education *and* focused effort for those children and young people most in need of help.

Engaging everyone, including families and children, in interpreting the vision and influencing how it becomes real.

Delegating decision-making and being flexible about how the vision is realised, while expecting high standards of service and good outcomes for children.

Recognising effort and rewarding achievement, including with financial investment.

Aiming for change to happen everywhere and being prepared to sit still, sometimes in uncertainty and to take some risk.

*A year of promise can be followed by a year of action.*

If we start by thinking of the best possible life for a child, there are a dozen things that come to mind, very few of which are about material possessions. And, perhaps surprisingly to some, children themselves do not rank possessions above



family and choice.<sup>2</sup> Therein is the key to a year of action, that is, a focus on family and choice.

If I list only five actions in the next 12 months that would kick start the required reform in child protection they are:

Developing policies and programs for child protection and wellbeing in a way that is unrushed, reasoned and engages practitioners, advocates, families and children.

Double the financial investment, from \$4.47 million to \$9 million, in targeted services for families with the highest needs and with requirements for effective engagement with the families. The goal over three years would be to surpass the national average per child expenditure.

Redouble the effort in ensuring all agencies working with families where children are at risk, work well together. This will require both sound assessment of need and making sure that everyone involved has a common understanding of the roles each will play. This can start by recognising and rewarding where this is already being done.

Agree on goals (and measures) for children and young people's participation in all major decisions affecting their lives, starting with the participation of children in care in their own case planning.

Renew the state's commitment to honour children's rights with the appointment of a Children and Young Persons' Commissioner, who has the required legislative powers and resources to identify where children and young people are multiply excluded or disadvantaged and to act on redressing this.

*Action will be built on foundations of goodwill and commitment.*

Whatever is decided in order to realise the vision, it will not start from scratch. In our work in the Office of the Guardian, I am reminded every day of the strength of children and young people to recover, strive and achieve and the professional and personal commitment of their carers and workers in child protection and youth justice. At times our relationships are tested by different viewpoints, scrutiny and our intervention. I thank everyone my Office has worked with over the past year for your cooperation and goodwill. The progress reported here is testament to children's, workers' and carers' resolve.

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<sup>2</sup> See, for example, Rees, G, Goswami, H, Pople, L, Bradshaw, J, Keung, A and Main, G (2012) *The Good Childhood Report 2012: A Review of our children's well-being*, The Children's Society: London

### **In 2011-12 the Office of the Guardian**

- Released reports on unmet need in mental health services, wellbeing of children and young people in care, and the impact sibling contact has on children's wellbeing.
- Increased the take-up rate by government and non-government agencies of good information sharing practice to better protect children and released a self-audit tool to rate the quality of procedures in information sharing.
- Negotiated for the progressive closure of the six oldest and largest residential facilities for children, commencing in 2013.
- Promoted children's rights, increasingly through the network of 140 Charter Champions in the 47 agencies which have endorsed the Charter of Rights. Charter Champions are leaders in their agencies for children's rights.
- Produced information on rights suitable for children with disabilities and distributed boxes of flashcards to 300 children and young people.
- Responded to 140 requests for intervention involving 195 children and young people in out of home care. Of these requests, 26 per cent came from children or young people themselves.
- Visited 294 children and young people living in residential care or youth training centres, in 53 announced visits.
- Audited 194 annual reviews of the circumstances of children under guardianship.
- Cemented our position as a principal source of up to date information on developments in South Australia in child protection and out of home care, primarily through the website and twitter stream.

## Functions and outcomes

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

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

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

## Promote

Statutory function

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

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### Our goals

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

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

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

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

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

The Office of the Guardian has accepted the responsibility for promoting and monitoring the implementation of the terms of the Charter. At the end of this year, 47 agencies had endorsed the Charter and there were 140 Charter Champions engaged to promote children's rights in their agencies.

In 2011-12 the implementation committee continued to meet, representing the experiences of government and non-government agencies in providing services to children in care. The major topics of discussion were access to education, use of complaints mechanisms and access to mental health services.

In January 2011 the Office commenced developing new materials about rights suited to children with disabilities. These were completed in November 2011 following consultation with 35 children and young people. The sets of flashcards have been distributed to over 300 children with disabilities.

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

In late 2008 the Guardian assumed responsibility for promoting and monitoring the implementation of the *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and Their Families* (ISG). The purpose of the guidelines is to guide workers and agencies in sharing information appropriately so that services are provided earlier when children, young people and members of their families are at risk. The guidelines help maintain the balance between the right to safety and the right to privacy.

In 2011-12 the ISG steering committee oversaw implementation across government departments and a growing number of non-government organisations. The major focus has been on agencies providing services in domestic violence, drug and alcohol addictions, homelessness and mental health. An audit tool for agencies to self-assess the quality of their implementation is among the suite of resources available from the Office's website. In early 2012 a review of the effectiveness of implementation commenced.

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

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

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

The Youth Advisors also make up the membership of the Advisory Committee, as required in the *Children's Protection Act*.

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

The website is the major source of information about the Office's activities, findings and views and the visitors to the site have increased by over 20 per cent in the reporting year and 86 per cent the year before. Quarterly newsletters and more frequent electronic bulletins keep subscribers up to date with news.

In February 2011 the Office started its Twitter stream and by the end of June 2012 had attracted 190 followers. The Office is gradually converting its text fact sheets to videos.

## Advocate

Statutory function

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

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### Our goals

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

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

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

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

In late 2011 the Office reviewed its individual advocacy service to ensure that the process for allocating resources is effective and efficient. The review resulted in several changes, with a renewed focus on the views and involvement of children and young people.

The Office's advocacy for individual children is consciously linked to our advocacy on systemic issues. Trends or repetition of problems are identified and pursued. In 2011-12 GCYP received 163 requests for intervention on behalf of children and young people. Of these, 140 fell within our mandate, that is, they were requests about children and young people under guardianship, or in the custody, of the Minister. This is a 26 per cent increase from the year before.

A single matter sometimes affects more than one child or young person in care. We therefore assisted or advocated on behalf of 195 children and young people. Our intervention ranges from providing information about policies or rights through to a full review of the circumstances of a child with advocacy for change. We reviewed 24 cases, including four that commenced in late 2010-11, affecting 36 children and young people.

The 140 requests that were within our mandate were made by:

Child or young person	36
Families SA	26
Parent	14
Other relative <sup>3</sup>	13
Carer (foster / relative)	11
Alternative care agency	8
DFC / DCSI / DECD <sup>4</sup>	6
Non-government community service <sup>5</sup>	5
Health	5
Education	4
Disability services	4
CREATE	4
Legal	2
Adult advocacy service	2

The presenting issues<sup>6</sup> were:

Participation in decision making	41
Safety	40
Contact with significant others	35
Stable and secure placement	35
Understanding current circumstances	22
Relationship with social worker	17
Nurturing environment	17
Access to health and disability services	10
Education	8
Appropriate care	4
Access to personal space	4
Other	10

<sup>3</sup> Not providing care to the child

<sup>4</sup> During the reporting period the Department for Families and Communities (DFC) was replaced by the Department for Communities and Social Inclusion (DCSI) and the Department for Education and Child Development (DECD). Business units within DFC, from which we received referrals, were split between DCSI and DECD. Although Families SA is located with DECD, the referrals from Families SA are reported separately. Similarly, referrals specifically from Disability Services (located within DCSI) are reported separately.

<sup>5</sup> Not including alternative care agencies.

<sup>6</sup> There is often more than one presenting issue in a request and one issue may affect more than one child. Our reporting is the number of children directly affected by the issue.

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

Once advice has been provided to the Minister on specific issues [see *Advise*] the Office pursues most matters through advocacy. In 2011-12 the major issues for advocacy were:

- Improvements in conditions for young people residing in Youth Training Centres.
- Closure of the large residential facilities for children.
- Unmet need in mental health services for children in care.
- Improvements to information sharing among agencies for early intervention to prevent harm to children and young people.
- Child protection system reform, particularly for renewed emphasis on family support services.
- Conditions for children in immigration detention.
- Significance of strong sibling relationships for children in care.
- Narrowing the gap in educational outcomes.

In April 2012 the third report summarising the Office's findings from its monitoring work was released. This year the *Report on the Wellbeing of Children and Young People in Care in SA* focused on the themes of safety, stability of placement, contact with family, friends and cultural community, and participation in decision-making.

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

- Guidelines for the classification of computer games
- Conditions for children and young people in immigration detention facilities
- Compulsory participation plans and support for teenage parents
- Detention in adult prisons of suspected people smugglers who claim to be children
- Free calls to Kids Helpline from mobile phones
- Improved responses to Foetal Alcohol Spectrum Disorder
- The legislative base for a National Children's Commissioner



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

The Office is notified by the Departments' Care Concern Investigations Units of allegations of serious sexual abuse of children in care. The role of the Office is to monitor the progress of the investigations and to ensure that the child has an advocate. This is done in cooperation with the Care Concerns Units, the South Australian Police and the Office of the Director of Public Prosecutions.

In 2011-12, 20 notifications categorised as serious were referred to GCYP for monitoring. In the reporting period, our office received more than one notification for five individual children and young people.

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

Residential care	9
Foster care	7
Relative care	4

### **Case study**

*'Nick', 13, wanted help with seeing more of his two younger siblings. Nick said that he only saw them once during school holidays and on special occasions. These occasional contacts usually occurred in a Families SA office. In discussion, Nick agreed that his younger siblings may have different views from his on the frequency of contact. With Nick's permission the Office of the Guardian contacted the two Families SA offices responsible for case management of the children.*

*The decision about contact had been made some time ago and had been reduced while the two younger children settled in to a new foster care family. There was other family contact for the younger children but Nick had been excluded from that because of his disruptive and aggressive behaviour. However, the aggressive behaviour had ceased on the more recent contact among the siblings.*

*In discussion with Families SA, the views of a Principal Social Worker were sought and all agreed that the views and best interests of all children should be considered and a review of the arrangement would take into account the children's changed circumstances and views.*

## Monitor

Statutory function

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

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### Our goals

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

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

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

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### *Implementation of monitoring framework*

In 2007 the Office introduced a framework for our monitoring activities so that we could report against standards deemed acceptable by children. There are 12 quality statements based on the rights in the children's charter. In 2012 the Office released the third report on the findings of the monitoring work.

### *Monitoring activities*

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

- Receipt of aggregate data available from the Department for Education and Child Development
- Audits of annual reviews (9.2 per cent of children on long term orders)
- Enquiries lodged at the Guardian's Office (7.8 per cent of children on care and protection orders)
- Visits to residential care and youth training centres (53 visits, approximately 12 per cent of children in alternative care)
- Review of records of safety in youth training centres (twice per annum)
- Case file audit of access to mental health services

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

In April 2012 the Office released the third report on the wellbeing of children and young people in care, which summarised the findings of all the monitoring activities for 2010-11 in four areas: safety, stability in placement, contact with family, friends and cultural community, and participation in decision-making.

The Office concluded that:

- Most children in care are safe. More than nine out of ten children and young people have a trustworthy adult present or available to them. Young people in large residential facilities appear to be the most vulnerable to harm or risk, for a number of reasons. The use of physical restraint in response to incidents of non-compliance or violence, remains stubbornly high in the youth training centres.
- The majority of children are in stable and secure placements but the audit of annual reviews suggests that there has been a worrying decline in security of placements with more long term placements under strain.<sup>7</sup>
- Good efforts are made to ensure children have contact with their family, particularly with parents and grandparents. Frequent and regular contact with their siblings is less assured. There is some evidence to suggest that one in five Aboriginal children do not have information specific to their cultural heritage.
- Almost three in four children and young people are satisfied with their participation in major decisions but there is limited record of their views. Their views are not routinely considered when their circumstances are being discussed.

#### *Aggregate data*

At the time of finalising the report (end September 2012), the data on children and young people under guardianship or in training centres could not be provided by the Department. This section therefore cannot be written. The information instead will be released in November 2012 in a summary of the annual report.

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

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

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<sup>7</sup> The more recent audit report (2011-12) suggests this was a single year dip in security and stability of placements.

In 2011-12, the highest number at any one time was 80 which occurred in early March 2012. At the end of 2011-12 the number was 51. This is in the context of an estimated 9 per cent per cent rise in the number of children in care this year. At 30 June 2012, 44 children had had stays of over 60 days compared with 45 children in June 2011.<sup>8</sup>

As part of the 2011 review of the Office's monitoring activity, it was negotiated with Families SA that the Office would regularly follow up on the circumstances for children who had been in interim emergency accommodation for long periods.

#### *Audits of annual reviews*

The Senior Advocate audited 194 annual reviews at 15 Families SA offices. Some offices scheduled regular reviews and were visited on more than one occasion. On six occasions GCYP declined invitations to attend scheduled annual reviews due to prior commitments with other offices. Annual reviews are conducted for children and young people placed under long-term guardianship orders. The Office audited 9.2 per cent of reviews that were to be conducted, down from 12 per cent in 2010-11.

A report on the audit is provided to the Minister annually. The major findings for 2011-12 were:

- More than eight out of every ten children and young people whose cases were reviewed were considered to be in stable, long-term placements.
- More than nine out of every ten children and young people had at least one significant adult in their life.
- One out of every four children and young people actively contributed to their annual review.
- Almost nine out of every ten children and young people were confidently considered as safe and reported to feel safe.
- Three out of every four eligible children and young people had current Individual Education Plans.
- One out of every four adolescents approaching adulthood, and the expiration of their guardianship order, did not have a transitioning from care plan to coordinate and facilitate actions and services.
- One in every three children and young people had received, and are developing, a Life Story Book.
- One out of every five children and young people did not have regular contact with a social worker.

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<sup>8</sup> These numbers may vary slightly from that discussed in *Aggregate data* above due to variations in counting methodology.

In 2012-13 we will continue to focus on the participation of children and young people, the inclusion of others in decision-making, the nurturing of cultural identity and connections for Aboriginal children and young people, and promoting consistent good practice across Families SA.

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

There are 65 residential care properties provided by Families SA and non-government organisations for children and young people under the guardianship or custody of the Minister for Education and Child Development. This is up from the 42 properties in the previous year. In 2011-12 the GCYP Advocates conducted 35 visits to residential facilities to meet and talk with the residents and staff. Written feedback is provided promptly to the manager and any specific concerns have been quickly responded to.

In 2011-12 the Advocates conducted 18 visits to residents in different units within Magill and Cavan Youth Training Centres. Written feedback is provided promptly to the manager and in all but a few cases any specific concerns have been quickly attended to.

In late 2011 an internal review of the monitoring visits resulted in changes to the breadth of the information collected at sites but a reduction in the number of houses visited. This became necessary because of the growth in the number of residential houses but no corresponding growth in the Office's capacity to visit.

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

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

- Behaviour management training has been thoroughly reviewed in response to the Guardian's 2010 inquiry into the use of physical restraint. A new behaviour management policy has been introduced.
- A new programs framework has been introduced to ensure greater quality and accountability for rehabilitation programs, following the Guardian's 2008 review of programs in training centres.
- The inclusion of residents' comments in the reports of incidents is now standard practice.

The Department for Communities and Social Inclusion has responded well to the written feedback from the Office's visits and many other changes are underway, not least of which is the closure of the Magill training centre and the opening of a modern facility at Cavan. The priority areas for attention include:

- Non-physical intervention when incidents occur, resulting in a reduction in the use of physical restraint.
- Reduction in the length of time of separation and seclusion when used as punishment.
- Centralised tracking of complaints and the response to complaints.
- Introduction of surveys of residents' views on safety and cohesiveness.
- Improved monitoring by management of incidents and staff response, linked to on-the-job training.
- Consistent induction process for residents, including information about responsibilities, expectations and rights.
- Enhanced staff skills in communication and responding to young people who have suffered trauma or who have disabilities.
- Continued improvement in the quality and outcomes from education, training and rehabilitation programs.

#### *Survey of children's views*

The results of a survey of children's views about their participation in decisions were released in October 2011. Ninety-two children and young people completed the survey, aged from 4 to 17, and two-thirds were satisfied with their participation in decisions.

#### *Case file audit of unmet need for mental health services*

From consultation in 2010, the Office of the Guardian heard often about unmet need for mental health services among children in care. However, there was little evidence to support the claims and little clarity about where, when and for how long children were waiting.

To understand better the extent and nature of unmet need in mental health services for children and young people in care, in 2011 the Guardian's Office audited 60 case files from five Families SA offices. The audit did not attempt to examine the quality or outcomes of the intervention.

The audit showed that the majority of children and young people whose files were viewed received a service. However, needs were not being met for reasons which included:

- assessments that did not focus exclusively or primarily on the child's mental health;
- delays between assessment and provision of the service; and
- little integration of mental health issues and progress into case planning and annual reviews.

## Advise

Statutory function

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

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### Our goals

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

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

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### *Advice and inquiry*

Commencing in January 2011 and concluding in September the major inquiry was about the significance of sibling contact for children and young people in care. The findings and conclusions from the inquiry were provided to the Minister in November, following discussion with the Department. This is reported in the following section, *Inquire*.

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

- Report on the wellbeing of children and young people in care (see p 14)
- Review of safety records in youth training centres (see p17)
- Audit of annual reviews (see p16)
- Implementation of the Information Sharing Guidelines (see p 9)
- Unmet need in mental health services – case file audit (see p 18)

### *Residential care*

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

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

In September and October 2011 the Guardian provided further documented evidence of harm to children and young people residing in the oldest large residential facilities. In late October, the new Minister for Education and Child Development agreed to the progressive closure of the six oldest facilities.

#### *Children in immigration detention*

While the State Minister does not have guardianship responsibility for children in immigration detention, the state government has a memorandum of understanding with the federal government for reporting and investigating child abuse and neglect, among other things. Consequently and following a visit by the Guardian and the Chair of the Council for the Care of Children, advice was provided to the Minister on the conditions for children at the Inverbrackie Alternative Place of Detention. Subsequent to this, advice was also provided to the Joint Select Committee on Australia's Immigration Detention Network.

#### *Child protection reform and family services*

In 2011 the Guardian convened a group whose members had a major interest in child and family policy and practice. One outcome of the regular meetings was a proposal for significant reform in the policy development and delivery of services to families whose children are at high risk. The proposal sparked further discussion in government, spurred on by the opportunities in the new Ministerial and Departmental structure which brought together education, children's services, child and family welfare and child and youth health.

#### *Improving educational outcomes for children and young people living in residential care*

Following a discussion with the Minister about residential and emergency care, written advice was provided on options for better assisting residents with their education and learning. The options emphasised individualised planning, one-on-one support, continuity of learning between school and home, and prompt communication among workers and carers.

#### *Commonwealth policy and programs*

As a member of the network of Australian Children's Commissioners and Guardians, the Guardian has contributed to responses to national policy issues affecting children. These are listed on p 12.



## Inquire

Statutory function

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

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### Our goal

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

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

The Guardian's Inquiry into contact among siblings who are in state care was conducted between January and September 2011. It included a review of the literature and legal/regulatory framework, a review of 100 randomly selected case files of children who had siblings, in-depth interviews with 18 young people and a focus group of young people to validate the themes that emerged.

There were seven recommendations arising from the findings.

1. Case workers document the expressed opinions and views of children and young people about their sibling relationships, their satisfaction with contact and satisfaction with their circumstances of care. The documented views will then be considered at least once a year at the annual review panel discussion.
2. Case workers document sibling relationships as identified by the child. Particular attention is paid to sibling relationships as defined by Aboriginal family structure. These views are reviewed regularly with children and young people. To facilitate this, placement genograms are used as part of case management, to capture changes of placements and children's views about relationships with significant people.
3. Decisions about placement of siblings include and document:
  - assessment of the needs of the collective sibling group, individual needs of each child, including their views, and advice about attachment between siblings;
  - sibling relationships, as identified by the child(ren), including the significance of each relationship;
  - the child(ren)'s views even if their wishes cannot be met;
  - if siblings are separated, a review of the placement decision within one month of the initial decision;
  - If siblings are separated, the preparedness of carers to support contact and proximity of placements.

4. Decisions about sibling contact arrangements include and document:
  - discussion at each care planning meeting, including annual reviews;
  - the child(ren)'s views about their satisfaction with sibling contact;
  - ongoing assessment of relationships of significance to the child(ren).
5. The recruitment, assessment and training of carers emphasise the importance of sibling relationships and the expectation that carers will facilitate agreed contact.
6. Case workers are supported and expected to arrange joint activities for separated siblings, such as outings, shared recreation and sport, camps and after-school or vacation care.
7. Carers are actively encouraged to facilitate face-to-face contact among siblings and these arrangements become part of annual care review discussion.

### Case study

*'Luke', 17, has lived in one residential care house for almost six years. During a monitoring visit by the Office of the Guardian Luke said that he was worried about turning 18 and leaving care. He was waiting for a house from Housing SA but he was not sure when this would happen. Luke admitted that over a year ago he had started to prepare for the transition but that, in his view, the support had not been helpful and he had refused to participate.*

*On further enquiry the Office learned that 12 months ago Families SA had agreed to an individualised arrangement for Luke which would have provided carer support full-time in a house, then gradually reducing as he learnt to be more independent. The arrangement had been made with a non-government organisation. However, no carers had been engaged, nor a house available, so Luke remained in residential care.*

*Now, when the social worker sought assistance from other services with Luke's preparation for leaving care, Luke was refused because he was considered too old.*

*The Office arranged a meeting between Luke, his social worker and senior Families SA officers at which it was agreed that Luke would work again with Housing SA on his application and leaving care support would be more actively sought. Families SA also agreed to continue to support Luke past his 18<sup>th</sup> birthday.*

## Investigate

Statutory function

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

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### Our goal

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

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No matters were referred to the Guardian by the Minister.

# Our organisation

## Legislation

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

## Governance

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

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

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

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

The Guardian is required to maintain a Youth Advisory Committee which assists the Guardian in the performance of their functions by ensuring that they are aware of the experiences of, and receives advice from, children who are, or have been, under the guardianship or in the custody of the Minister.

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

## Location

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

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

### **Access**

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

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

### **Complaints**

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

There have been no formal complaints made to the Office about the service in 2011-12.

### **Energy management**

The Office of the Guardian recycles all waste paper, rubbish is sorted for recycling and power standby features are engaged. The Office uses a fuel-efficient hybrid vehicle.

### **Freedom of information**

Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no requests for other information during 2011-12.

### **Strategic and organisational planning**

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

### Employee numbers, gender and status

Total number of employees (including Guardian) at June 30 2012	
Persons	8
FTEs	6.8

Gender	% Persons	% FTEs
Male	12.5	11.8
Female	87.5	88.2

Number of persons during 2011-12	
Separated from agency	0
Recruited to agency	2

Number of persons at 30 June 2012	
On Leave Without Pay	0

Number of employees by salary bracket at 30 June 2012			
Salary bracket	Male	Female	Total
\$0 - \$50,399			
\$50,400 - \$64,099		1	1
\$64,100 - \$82,099	1	3	4
\$82,100 - \$103,599		2	2
\$103,600+		1	1
Total	1	7	8

Status of employees in current position at 30 June 2012					
Persons	Ongoing	Short term	Long term	Other	Total
Male	1				1
Female	4	2	1		7
Total	5	2	1		8

### Workforce diversity

Number of employees by age bracket by gender at 30 June 2012					
Age bracket	Male	Female	Total	% of Total	Workforce benchmark (%)
15-19					6.1
20-24					10.6
25-29					10.5
30-34					9.4
35-39		4	4	50	11.2
40-44		1	1	12.5	11.1
45-49					12.2
50-54		2	2	25	11.0
55-59					9.2
60-64	1		1	12.5	6.0
65 +					2.9
Total	1	7	8	100	100.0

Aboriginal and/or Torres Strait Islander employees at 30 June 2012				
Male	Female	Total	% of Total	Workforce benchmark (%)
0	1	0	12.5	2

Cultural and linguistic diversity					
	Male	Female	Total	% of agency	SA community (%)
Number of employees born overseas	1		1	12.5	20.3
Number of employees who speak languages other than English at home				0	16.6

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

### Leave management

Average days leave taken per full time equivalent employee	
Leave type	2011-12
sick leave	15.8
family carer's leave	2.2
miscellaneous special leave	7.5

\* sick leave is higher than previous years because of extended leave for one employee.

Employees using voluntary flexible working arrangements by gender at 30 June 2012			
	Male	Female	Total
purchased leave			
flexitime	1	6	7
compressed weeks			
part time job share			
working from home			

### Performance development

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

### Consultants

There were no consultants engaged by the office during 2011-12.

### Occupational health, safety and injury management

In 2011-12 there were no incidents resulting in workplace injury.



## Financial

### *Income*

The source of income for the Office is an allocation of \$866,200 made for the child protection reform program and the Information Sharing Guidelines and administered through the Department for Education and Child Development.

### *Expenditure*

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

Financial summary of expenditure			
Item	Actual	Budget	Variation
Salaries and wages	653,586	698,687	45,101
Goods and services	178,577	167,513	(11,064)
<b>Total</b>	<b>832,163</b>	<b>866,200</b>	<b>34,037</b>

## The staff team

During the 2011-12 financial year, nine 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 first appointed to the position of Guardian in June 2004 and reappointed in December 2010. She has 25 years work experience as an advocate for social justice and change in Australia and overseas.

*Office Manager*

Yvette Roberts

Yvette provides a range of services within the office including records management, human resources and finance support. She manages the implementation and maintenance of key facilities and services and ensures that systems and procedures are in place to support the work of the office. Her recent project work includes coordinating the development of the disability rights flashcards and implementation of the Charter of Rights.

*Communications Officer*

Malcolm Downes

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

*Senior Policy Officer*

Kendall Crowe

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

*Senior Advocate*

Amanda Shaw

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

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

*Advocates*

Belinda Lorek (until April 2012)

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

Melissa Clarke (from September 2011)

Melissa is an advocate who investigates individual matters, visits children in residential care. She is a Ngarrindjeri woman who brings experience in youth justice, child protection and community engagement to the Office.

Jodie Evans (from April 2012)

Jodie is an advocate who investigates individual matters, visits children in residential care and manages some projects. She has worked in youth justice for many years, both in Australia and the United Kingdom and she has recently worked with victims of serious crime.

#### *Principal Advisor – Information Sharing*

Donna Mayhew

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

#### *Youth Advisors*

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

Mellita Kimber

Mellita is Regional Manager, Consumer Services at the Southern Adelaide Local Health Network. As well as assisting the Office of the Guardian, she has served on the Council for the Care of Children and on the Board of the Dame Roma Mitchell Trust Fund.

David Wilkins

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

Sara Bann

In 2011-12 Sara worked for the Department of Environment and Natural Resources in the South Australian Government and now works for Mission Australia. She continues to contribute her knowledge of the issues facing young people in the care system. Sara was the 2010 Channel 9 SA Young Achiever.

**Benita Brinkworth**

Benita was in foster care for eight years before her carers became her legal guardians. She joins us after a long association with CREATE including completing the Mission:Be program. She is particularly interested in Spanish, travel and the arts including photography, music and drawing.

**Thomas Manning**

Thomas is studying science at Adelaide University and is a member of the Council for the Care of Children. Among other volunteer work he has been involved with Create, YACSA, World Vision and Meals on Wheels. Thomas came into care at 12 years of age.

**Membership of external committees**

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

**Learning and development**

- Child Safe Environments x 2
- Project Management Fundamentals x 2
- Finance Training
- Women's Health Statewide: Responding to traumatic experience
- Anglicare and Flinders University Research to Practice Seminar: children in residential care