

Guardian for Children
and Young People

2008- 09

Annual Report



Government
of South Australia

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Office of the Guardian for Children and Young People

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The Hon Jennifer Rankine MP
Minister for Families and Communities
GPO Box 1563
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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 2009, 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 2008-09 financial year.

Yours sincerely

A handwritten signature in black ink that reads "Pam Simmons". The signature is written in a cursive, flowing style.

Pam Simmons
Guardian

30 September 2009

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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 in alternative care. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

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

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

The Office of the Guardian is an independent government agency and the Guardian advises the Minister for Families and Communities.

Functions

Under the establishing legislation the Guardian has six statutory functions:

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

We report against these functions in this annual report.

Our purpose

Making it work for kids in care.

What we believe and value

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

We value:

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

The year in review

This year saw new services for families in crisis provided by non-government organisations in partnership with Families SA. The expected outcome in curbing the growth in the numbers of children requiring state care will be a few years away yet. South Australia now has over six children in a thousand in state care, up from three in a thousand 10 years ago. This is consistent with the national trend.

The higher numbers of children needing state care and the knowledge of failures in the past to provide safe care raise the bar on what is required of the care and protection system. Every year it must feel that public expectations will never be met. However we do make progress. My reporting aims to acknowledge how far we have come and what else there is to do.

Early intervention is critical to children's safety and wellbeing

The big news for the year was the release in April 2009 by the Council of Australian Governments (COAG) of the national framework for protecting Australia's children. Its significance lies in governments agreeing that promoting safety and wellbeing of children is as important as responding to abuse and neglect. Far too little attention has been paid in the past to effective measures to prevent abuse and effective early intervention services for families and children.

If the national framework is to make a difference it must result in collaborative work across and within jurisdictions and account for progress against outcomes.

The South Australian government now has the opportunity to renew its 2004 commitment to child protection reform. It needs to generate new energy for the unfinished business of family support, effective intervention when abuse occurs, better services to children in state care and inter agency collaboration.

It is time for a new child protection plan in South Australia.

A state plan would respond to the national goals and strategies with state-specific goals, building on what has been achieved from the 2004 *Keeping Them Safe* reforms, but starting afresh with current evidence and knowledge.

If I had to pick just two areas for immediate attention it would be services for infants and services for adolescents. I am disappointed that the vulnerable infants' services plan has not been funded in the last three years' health budgets.

At the very least we should commit to provide therapeutic services to every traumatised infant and it is a shame that we do not provide such a guarantee. Therapeutic intervention at this age, through their primary carer, can prevent escalation of unrecognised problems resulting from early abuse or neglect.

The needs of young people at risk have been sorely neglected in the efforts to make scarce child protection dollars go further. In travelling around the state I have heard of a small but growing number of 12 to 15 year olds who have fled the family home, are ineligible for youth homelessness services but are not assisted through child protection services.

Child protection services should take the lead to make sure that young people who cannot be cared for at home are still cared for. While it is not solely their responsibility it is primarily their obligation.

In at least one strategy of the national framework, South Australia is well prepared. This is the need to share information among service providers working with vulnerable families. In October 2008 the South Australian cabinet endorsed the *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families*. The significance of these guidelines is the potential for preventing abuse or neglect by obliging agencies to alert others of their concerns about children where harm is anticipated. It is expected that this will enable better coordination of services and earlier intervention.

But some children will still need alternative care

The number of children under care and protection court orders at 30 June 2009 was 2111, a rise of 8.6 per cent from the same time last year. In the past five years the number of children under guardianship or custody court orders or arrangements has risen 55 per cent. There is a similar trend in the numbers requiring alternative care, rising 9.8 per cent in the past year and 68 per cent in the past five years. This continued high level of growth in demand puts considerable pressure on the government agency responsible for their guardianship and on the alternative care system.

Our inquiry in 2008-09 asked children what they thought about contact with their case workers. The interviews with children suggest that the relationships are typically positive and beneficial and children value them for a sense of safety and happiness, assistance to resolve issues, access to goods and services and empowerment in decisions.

However, the case file evidence shows that one in five children do not have enough contact, if any, to know their case worker. It is unlikely in the foreseeable future that there will be the number of case workers to meet the required standard of monthly contact with all children. This makes it more important that the frequency of contact is decided following assessment of need and risk, taking into account the child's views. This is a preferred option to not allocating a case worker to a child, when rationing resources.

While there is much to be done in caring well for all children in alternative care our monitoring of the circumstances of children shows that most have good care and services. Our audit of annual reviews shows that 78 per cent of children and young people whose cases were reviewed were in stable, long-term placements and 90 per cent were receiving services for their needs.

There has been further progress in the past year on increasing the number of family-based placements and in expanding the options in alternative care to better suit the needs of the child. One result of this is the reduction in the numbers of children housed in motels from a high of 87 children in May 2008 to 49 at June 2009. In May 2008 there were 59 children who had stayed over 60 days in motels falling to 37 children with long stays by June 2009. This is still too many for too long.

An alternative care plan is needed to cement this progress for the future and to ensure the engagement of everyone with the outcomes and strategies.

An alternative care plan is in addition to the child protection plan. It would take the 2007 statement on directions, called *Keeping Them Safe – In Our Care*, to the next level of action.

In 2005 I recommended the closure of the large residential facilities for children. To date, there has been no commitment to do this. These facilities house between 8 and 12 residents, well beyond the maximum number for safe residential services for children. The good news is that the average occupancy rate has fallen slightly and there is more control over admissions.

I recommend again that these large facilities be replaced with more home-like smaller residences.

In August 2008 I provided advice to the Minister on the question of whether a safe-keeping service was warranted. Safe keeping is the statutory confinement in a specific location of a child or young person where no offence has been committed but when a child's safety and wellbeing are at substantial risk. My advice was to not proceed, largely because there is high likelihood of abuse of purpose of the court orders while we have limited access to community-based therapeutic services and over-demand on the alternative care system.

Instead, among other things, I recommended intensive case management coupled with intensive therapeutic services for children who are at highest risk. Some progress on this will be made in 2009 with a trial of intensive therapeutic services for a small group of young people. This is welcome, but I expect will not go far enough to meet the children's complex needs.

The issue of runaway children raises questions about the adequacy and the effectiveness of therapeutic services to all children who have suffered abuse or neglect. In a better world we would guarantee therapeutic assistance to every infant, child and young person brought into care for as long and as often as they

need, to help overcome the long-term impacts of the experience of trauma. The reality is far from that.

We should however guarantee assistance to every traumatised infant and a more comprehensive service to children and young people with high and complex needs.

Is it to be rehabilitation or further punishment for children and young people in custody?

The cancellation in June of a replacement youth training centre was a major blow for those who care about the welfare and rights of vulnerable children and young people. Opened in 1967, the Magill youth training centre was not designed as a detention facility and suffers from security add-ons over many years which result in a high security institution unsuited to its purpose of rehabilitation. Successive governments have pledged to replace it.

The announcement in September that the government would proceed with a replacement facility was received with great relief.

While we wait for an improved facility there is more that needs to be done to improve the services and rehabilitation programs available to young people in custody, at both the Cavan and Magill centres. The capacity of the general and mental health services has improved in the past year and the case management service is also improving.

The rehabilitation programs are under-developed so that young residents are largely engaged in activity which is not effectively linked to reducing the risks of them re-offending. Without good rehabilitation programs we are wasting their time and our opportunity to help them live within the law.

In May 2009 the *Statutes Amendment (Recidivist Young Offenders and Youth Parole Board) Bill* was introduced to the House of Assembly. The Bill allows for the Court in sentencing a young person for a serious offence, where the required criminal history exists, to consider whether to declare the young person a 'recidivist young offender'. This declaration of 'recidivism' suspends the need for proportionality between offence and sentence and results in more time served in detention.

While these amendments are likely to affect only a small number of young offenders the focus on locking young people up for longer detracts from the more effective focus on intensive supervision in the community, now offered with Community Protection Panels. If there were programs available in the training centres that addressed the specific needs of serious offenders this proposal may have been more acceptable. But there are not. It is hard not to see it as punishment because we can, rather than a prevention of further crime through rehabilitation and inclusion.

Buoyed by cooperation and commitment

In our work, 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, the 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 your resolve.

What we have achieved in 2008-09

- Inquired about what children think about good contact with their case workers
- Expanded our advocacy service for children and young people
- The first five government departments and non-government organisations have incorporated the Information Sharing Guidelines into their practice
- Produced and distributed a checklist for child-sensitive records, written by our Youth Advisors
- Produced and distributed the *Guide to good practice: Participation of children and young people in decisions made about their care*
- Published two comic books for children in care by young people in care
- Responded to 141 requests for assistance involving 204 children in alternative care
- Distributed to children an expanded range of being in care materials
- Promoted the rights of children and young people in care, particularly the right of participation

Who we work for

We promote and protect the rights of the over six in every thousand South Australian children and young people who are in the custody or guardianship of the Minister for Families and Communities. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

As at 30 June 2009 in South Australia there were 2,111 children and young people under the guardianship of the Minister through care and protection court orders, not counting the 46 on interim or temporary orders. These 2,111 children and young people had the following characteristics.

| | | |
|----------------------|-------------------------------------|------|
| age | 15 -17 | 19.8 |
| | 10-14 | 28.7 |
| | 5-9 | 29.2 |
| | 2 to 4 | 15.7 |
| | 0 to 1 | 6.7 |
| gender | females | 46.4 |
| | males | 53.4 |
| | unknown | 0.2 |
| aboriginality | Aboriginal | 24.2 |
| type of order | long term care and protection order | 83.5 |
| | 12 month care and protection order | 16.5 |

Source: FSA Data Warehouse

The living arrangements for children under care and protection orders¹ are as follows.

| | | |
|--------------------------|--|------|
| care arrangements | | % |
| | parents | 4.8 |
| | relatives/kin (unpaid) | 5.2 |
| | foster care | 42.1 |
| | relatives/kin (paid) | 32.3 |
| | community residential care | 7.7 |
| | independent living | 3.2 |
| | other/unknown (inc. interim emergency) | 4.8 |

Source: FSA Data Warehouse

¹The following includes children on interim and/or temporary orders, other person guardianship and voluntary custody agreements.

The number of children and young people under the custody or guardianship of the Minister in South Australia grew by 8.6 per cent in the 12 months to June 30 2009, approximately the same rate of increase as in the 12 months preceding that.

In 2008-09 there were 1,097 admissions to secure care and the average daily occupancy of the two secure training centres was 72.34.

Functions and outcomes

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

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

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

Promote

Statutory function

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

Our goal

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

In October 2008 State Cabinet adopted the *Information Sharing Guidelines for Promoting the Safety and Wellbeing of Children, Young People and their Families* (ISG). The Guardian was requested to actively promote and monitor their proper use across all government agencies and non-government organisations. A Principal Advisor (Information Sharing) was appointed in January 2009 to assist with the implementation of the guidelines. The ISG is the first of its kind in Australia and should be of significant benefit in coordinating services to families where it is anticipated that children may be harmed.

Our goal

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

About being in care

The 'being in care' products have been developed by young people in care for children and young people in care, with the assistance of this Office. In previous years we have produced a booklet, contact cards, a social worker checklist, backpacks, 'rights' wristbands, key-rings and tattoos. This year we launched two comic books and a soft toy for younger children. Oog, the safety symbol for children in care, was again in the Credit Unions Christmas Pageant.

Voice of children and young people

Core to our purpose is strengthening the voice of children and young people in care. Reports, newsletters, policy advice and presentations emphasise what young people have said about the matter. We source their views through focus groups, interviews, reference groups and our Youth Advisors' meetings.

Checklist for child-sensitive records

This year the Youth Advisors wrote a checklist for child-sensitive records. This was released in December 2008 and has been promoted in the training and induction for the Information Sharing Guidelines.

Safe keeping orders

Safe keeping is the statutory confinement in a specific location of a child or young person whose safety is at immediate and substantial risk and cannot be assured other than through confinement. In April 2008 we commenced an inquiry into the benefits and costs of safe keeping provisions and provided advice to the Minister in August. The advice was to not proceed with legislation.

Services Bank and Dame Roma Mitchell Trust Fund

We work closely with Families SA, Community Connect (DFC), and the Board of the Dame Roma Mitchell Trust Fund for Children and Young People in finding additional goods and services for children. This year we also supported the completion and printing of the Aboriginal Life Story Books.

Our goal

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

In October 2008 we released a literature review of participation of children and young people in decisions made about their care.

In January 2009 we convened a roundtable discussion on participation of children.

Based on the discussion we released a guide to good practice in February.

In June 2009 we hosted a workshop for 40 practitioners on listening and talking with children and young people.

Modelling participation in decision making

We monitor our performance against our youth participation strategy which requires the active contribution of children and young people in our work and decisions. This year young people have participated in our systemic inquiry, projects, selection panels and information provision. Our Youth Advisors have prepared advice on foster carer assessment and what makes a good social worker.

Individual advocacy

We provide a trouble-shooting service for children in care who may be seriously harmed or distressed about decisions or lack of services [see below, p 14]. This requires adopting the child's perspective as part of the advocacy process.

Simon

'Simon', 15, lives with his uncle and 10 year old sister. Simon rang our office to ask if his youngest sister, Cas, could also live with them. Cas, 6, had only recently moved from one foster care placement to another. Simon said he did not think it was fair that the three of them were living apart. With Simon's permission, our office contacted the Families SA social worker and represented Simon's views.

The social worker reported that until recently the youngest sister had been case managed by another district centre and it had been the birth mother's wishes that Cas not be placed with relatives. The worker confirmed that the children's cases were now managed by the same district centre and that the supervisor was reviewing this decision.

Families SA convened a case meeting which included the GCYP advocate, Simon, his 10 year old sister and uncle. Cas's carer was also at the meeting and she reported that Cas wanted to live with her family. The supervisor undertook to consult with the Principal Aboriginal Consultant regarding the children's wishes and discuss the children's wishes with their mother.

Cas went to live with Simon, their sister and uncle.

Advocate

Statutory function

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

Our goal

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

Individual advocacy

Our individual advocacy work is consciously linked to our advocacy on systemic issues. Trends or repetition of problems are identified and pursued. In 2008-09 the Office received 179 requests for intervention on behalf of children and young people. Of these, 141 fell within our mandate, that is, they were requests about children and young people under guardianship, or in the custody, of the Minister. This was up from 117 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 204 children. The type of assistance is within a range of intervention, from information about policies or rights at one end through to a full review of the circumstances of the child with advocacy for change. We reviewed nine cases, affecting 13 children, down from 31 the year before.

The 141 requests that were within our mandate were made by:

| | |
|-----------------------------------|----|
| Parent/guardian | 29 |
| Child/young person | 27 |
| Families SA | 24 |
| Alternative care agency | 18 |
| Carer (relative/foster) | 10 |
| Health services | 7 |
| Other relative | 6 |
| Disability services | 5 |
| Education and children's services | 4 |
| Legal services (including court) | 4 |
| Special Investigations Unit | 2 |
| Other | 5 |

The presenting issues were²:

| | |
|------------------------------------|----|
| Family access (sibling and parent) | 67 |
| Care arrangements | 57 |
| General health services | 51 |
| Mental health services | 46 |
| Support services (not specified) | 41 |
| Education | 38 |
| Disability services | 27 |
| Leaving care arrangements | 12 |
| Other | 17 |

Alleged sexual abuse of children in care

In November 2008 we commenced a new role of advocating for children who are alleged victims of sexual abuse while in care. This is done with the cooperation of the Special Investigations Unit (DFC) and the South Australian Police. Our role is to monitor the progress of the investigation and to ensure that the child has an advocate. In the eight months to June 2009, 61 notifications have been referred to us for monitoring.

Safe keeping orders

In August 2008 we completed our inquiry into safe keeping orders and have since voiced our view on this and the closely related issue of lack of therapeutic services for children with high need.

Improving educational outcomes

In January 2008 we released a report on improving educational outcomes for children and young people under guardianship. A progress report on implementation was completed by the Departments in February 2009 demonstrating good cooperation in meeting the objectives of the inquiry.

Review of programs in secure care

In March 2008 we released a report on the effectiveness of programs provided to young offenders in the youth training centres. The eight recommendations were accepted for implementation by Families SA, who are responsible for services to young offenders. Progress reports were prepared in June and November 2008 and again in June 2009. Significant improvements have been reported in case management.

² 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.

Prevention of sexual abuse in care

Our advocacy on this topic dates back to 2005 and the public documents are available from our website. Legislative changes proposed in the Mullighan Inquiry Report and accepted by government are before Parliament. Since 2007 we have been working closely with Families SA on addressing the issue of children who run away from placements and are at high risk of exploitation. This project is ongoing.

Children in temporary accommodation

In 2007 we began to monitor the number of children in motel-like accommodation and made recommendations for improvements to the quality of care provided which were largely implemented. We continue to monitor the number and length of stay which has fallen from a high of 87 children accommodated in motel-like accommodation in May 2008 with 59 children staying over 60 days, to 49 at June 2009 and 37 with stays over 60 days. It is good to see the steady decline in the use of this form of accommodation.

Rebecca

'Rebecca', 13, had her first admission to Magill youth training centre in 2008 on remand for a minor offence. Rebecca had previously been diagnosed as a higher-functioning young person with Asperger's Syndrome. She had displayed threatening and aggressive behaviour towards her mother and younger sister. As a result of the escalation of her violent behaviour and fear for her family's safety, Rebecca's mother said Rebecca could not return home.

Families SA were not providing child protection services to Rebecca and advised that an alternative care placement was not available. Rebecca's court matter was adjourned for two weeks while attempts were made to obtain a placement.

Two case conferences were held during her detention which the Office attended. Families SA were represented by youth justice staff but not child protection because they did not identify Rebecca as a client.

Rebecca's legal matter could have been finalised within the first two weeks by way of a Family Conference or through the diversion court. However, both of these options required Rebecca to have a placement.

Rebecca was eventually placed through Disability SA.

Domestic violence law reform

In 2008-09 the Office participated in a cross-government working group on domestic violence law reform following a 2007 review by Maureen Pyke QC for the Attorney General.

Raising public awareness

We aim to maintain an active program of public speaking and writing to raise awareness of issues for children in care and in child protection more generally. Fourteen public presentations were made.

Our goal

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

Charter of rights

In 2005 children and young people in care wrote their own charter of rights with assistance from the Office of the Guardian, CREATE, Families SA and the Child and Family Welfare Association (SA). On the young people's behalf we have the responsibility for ensuring its implementation. An implementation committee met throughout the year to report on progress in endorsement, distribution and compliance with the rights. From May 2006 we have invited agencies to endorse the charter. As at 30 June 2009 43 agencies have committed to uphold the 37 rights. Three other agencies are in the process of endorsement.

In addition to seeking endorsement the implementation committee has reported on implementation within their own sectors, exchanged experience on promotion and organised a workshop on listening and talking with children.

Monitor

Statutory function

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

Our goal

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

Implementation of monitoring framework

In 2007 we 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 November 2008 we wrote a monitoring report based on what we knew from our monitoring activities. The report was discussed with the agencies affected. We expect that a public report will be released later in 2009.

Monitoring activities

We undertake the following activities to monitor the circumstances of children and young people in care:

- Receipt of aggregate data available from Families SA (see below)
- Audits of annual reviews (5.7% of children on long term orders)
- Enquiries lodged at the Guardian's office (approximately 9.6% of children on any order)
- Visits to residential and secure care units
- Review of records of safety in secure care
- Field consultation with service providers

Aggregate data

Aggregate data is primarily sourced through and with the cooperation of Families SA. The most current and all-purpose data is available from the Guardian's website. Notable changes were:

- The numbers of children on 12 month and 'to 18' guardianship orders has risen from 1,362 in June 2004 to 2,111 in June 2009, an increase of 54.9 per cent with an increase in the financial year 2008-09 of 8.6 per cent.
- The number of children 0-17 years on care and protection orders has grown from 4.2 per thousand children in 2004 to 6.2 per thousand in 2008, the latest figure available at the time of publication.

- In the period June 2005 to June 2009, the proportion of children and young people in family based alternative care has declined steadily from 92.5 per cent to 86.4 per cent.
- The proportion of children and young people in all forms of emergency short term care has risen from 1.5 per cent to 6.9 per cent in the period December 2005 to June 2009 while the number in interim short term care (motels, B&Bs) has fallen from a peak of 3.8 per cent in June 2008 to 2.5 per cent in June 2009.
- The proportion of Aboriginal children placed with Aboriginal and Torres Strait Islander relatives increased from 27.6 per cent in June 2005 to 39.1 per cent in June 2009.
- The proportion of children under 12 month and 'to 18' orders who are Aboriginal grew from 20.5 per cent in June 2005 (5.5 per cent unknown) to 24.2 per cent in June 2009 (1.0 per cent unknown).
- The total number of admissions to secure care has grown from 915 in 2004-05 to 1,097 young people in 2008-09 and rate of average daily occupancy has grown from 51.55 to 72.34 young people in the same period.

Audit of annual reviews

The Senior Advocate audited 93 annual reviews at 13 district centres. This is 5.7 per cent of reviews that were to be conducted. Annual reviews are only conducted for children and young people placed under long-term guardianship orders.

A summary report on the audit is provided to the Minister annually.

In summary, the audit demonstrated:

- Almost four in five (78 per cent) children and young people whose cases were reviewed were in stable, long-term placements.
- Nine in ten (91 per cent) had at least one significant adult in their lives. However eight adolescents approaching independence did not have any significant connections beyond Families SA.
- Connections between siblings in separate placements remains an issue.
- More than four in five (83 per cent) of school aged children had Individual Education Plans.

Based on comparisons with the 2007-08 audit it appears that improvement had been achieved in:

- Engagement of services to meet the individual needs of children and young people
- Allocation of case workers to children
- Use of the Individual Education Plans
- Provision of the Charter of Rights and the use of Life Story Books.

In relation to participation of children, 21 per cent directly participated in their annual review in person or by survey, with an additional 68 per cent represented through contact with their case worker or carer. More than one in ten (11 per cent) did not have a voice in case planning or annual reviews.

Tracy

'Tracy', 15, lives in residential care and wants to maintain contact with her family who have moved interstate. During a monitoring visit she told a GCYP Advocate that she had not had any contact from her allocated social worker for six months and would like to speak with him. Tracy's previous social worker had suggested that Families SA may be able to support her to visit her family. The supervisor of the residential care facility reported that they had unsuccessfully requested the social worker make contact with Tracy and had encouraged Tracy to phone the social worker.

At Tracy's request, the Advocate rang the social worker who said that he had not had time to make contact with Tracy. The social worker proposed that he would contact the staff of the residential care facility but would not speak with Tracy to avoid 'setting up expectations'.

The Advocate then spoke to the Families SA supervisor to check whether any assessment of Tracy's need for regular contact with her case worker had been done which would explain the reduced contact. No such arrangement was in place and the supervisor confirmed Tracy's right to regular contact and promptly agreed to talk with the social worker. The matter was resolved.

Visits to residents of residential and secure care

Families SA has six residential care units and ten transitional accommodation houses. There is another 15 residences operated by non-government organisations. In 2008-2009 the GCYP advocates made 34 visits to residential facilities to meet and talk with the residents and staff. Written feedback is provided promptly to the relevant manager and any specific concerns have been quickly responded to.

In 2008-09, the advocates made 10 visits to residents in different units within Magill and Cavan Youth Training Centres. Written feedback is provided promptly to the relevant manager and any specific concerns have been quickly responded to.

Annual reports on the findings from these visits are discussed with the agencies affected.

Review of records of safety in secure care

Twice a year we visit the two youth training centres for the purpose of reviewing their records that relate to the physical safety of residents.

Demands on the youth justice service system as a whole have been considerable in the past three years, including major restructuring of service delivery, introduction of a new case management system, changes to serious offender community programs and planning for a new youth training centre. In the youth training centres specifically there has been progress in listening to residents' views, evidenced by responding to complaints and residents' meetings, and in recording residents' accounts of serious incidents. A more thorough risk assessment tool has been introduced and there is an improved mental health clinical service. There has been no evident progress made in individualised program delivery.

Field consultation

The purpose of the consultation is to hear from professional workers their views on how well the care system works for children and young people. From September to December, consultation sessions were held at 27 sites state wide with 295 participants in total. This was the fifth such consultation.

The overall impression is that, despite high demand, workers across agencies are focused on the children for whom they have a duty of care or guardianship. The growing sense of order and professionalism in Families SA continues, as does enhanced inter-agency work. While there is still much progress to be made in realising the benefits for children in respectful 'care teams' there are improvements in the day to day interaction between carers, social workers and carer support workers.

Services and accommodation for children with high needs and stable placements for 12 to 15 year olds emerged as two significant issues. There was also a rising sense of indignation that collectively the state could not provide what children are entitled to.

Youth Advisors and participation

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

The Youth Advisors assist the office with most projects, the selection of staff and contractors, initiate projects of their own, do some public speaking and contribute to planning and policy advice.

Advise

Statutory function

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

Our goal

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

Advice and inquiry

In 2008-09 one major inquiry was conducted and advice provided to the Minister as a result of this. This is reported in the following section, Inquire.

Residential care

In 2005 I 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 institutions tells us that the risk of harm is higher when staff have only limited control over the 'mix' of residents and when resident's high needs can make peer relationships threatening or hostile. In larger residential facilities these risks are hard to avoid. In 2007 I was greatly disappointed that the government decided to build two additional 12-bed facilities.

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

While there is no firm commitment to replace the large facilities I am pleased to say that towards the end of 2008-09 Families SA reported a reduced number of residents and greater control over admissions.

In 2007 I conducted a limited inquiry into the issue of children missing from residential care. Following agreement with Families SA on strategies to better address their needs, two progress reports have been written which show progress evident in greater control over admissions, ongoing discussion with SAPOL for prompt retrieval and legislative changes which are before Parliament now which would create an offence for harbouring, concealing or communicating with a specific child against the Chief Executive's written direction. Under discussion is a more intensive therapeutic service to children who abscond frequently and are at high risk of exploitation.

Youth justice

In addition to reports provided to the Minister on visits to the youth training centres and reviews of safety records, we have also commented on proposed youth justice legislative changes. This year has been the draft Bill (now the *2009 Statutes Amendment [Recidivist Young Offenders and Youth Parole Board] Bill*). I did not support the proposed changes because the amendments effectively required detention and longer detention for defined groups of young offenders and seemed to detract from the purpose of the newly established Community Protection Panels. In July 2008 I also reported the conclusions of a case review commissioned by me on the circumstances that led to a young man being transferred from a youth training centre to the adult prisons.

Mental health services

Issues of access and effectiveness of mental health services for vulnerable children have been reported throughout the year. The following priorities were highlighted in meetings with the Minister for Mental Health and the Minister for Families and Communities:

- Mental health workers located in Families SA District Centres to lessen risk for children in families where mental illness is a major contributing factor to substantiated abuse or neglect.
- Development of a culturally appropriate model of service to Aboriginal children and families, accelerating the work underway in Families SA and CAMHS.
- Assistance to carers to better support children and young people in crisis. Included in the proposals here is a dedicated service to carers with infants who have been traumatised, which has both an immediate and preventative benefit.
- Implementation of a strategy for children with high and complex needs. This would include improved initial assessments of need when children first come into care, streamlined referrals, a multi-disciplinary panel, and access to more intensive therapeutic services as required.
- Implementation of a strategy for children of parents with a mental illness.

The advice on safe keeping orders [see Investigate, p 28] included advice on strategies to address the mental health needs of young people who frequently run away and are at high risk.

Contributions to policy development

In addition to the advice to the Minister we provide our view to others on policies that affect vulnerable children or children in care. In this past year we have provided written comment on:

- Records disposal
- National education reform
- Foster carer assessment and training
- Regulations to the *Family and Community Services Act 1972*
- National disability strategy
- Transition from care
- Protocol between Families SA and Disability SA
- Permanency planning
- Secure care residents at high risk

Inquire

Statutory function

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

Our goal

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

The significance of quality contact between children and their case workers

In November 2008 we commenced an inquiry to look more closely at what children think about contact and relationship with their case workers. We did this because we were concerned about what children missed out on when they had no contact or infrequent contact with their workers. The issue had come to our attention through visits to residents in residential care facilities and in the audit of annual reviews.

The inquiry included a literature review, interviews and discussion with 28 children, a focus group of case workers, evidence from 96 case files and ongoing discussion with a reference group. Two young researchers were engaged to assist with the project and particularly with the interviews with children.

The report was provided to the Minister in July 2009 and released to the public in August.

The use of physical restraint of children in residential facilities

In April 2009 I commenced an inquiry into the current policy and practice in the use of physical restraint of residents in South Australian residential facilities for children. The inquiry is due to be completed by January 2010. The inquiry includes a review of Australian and international literature, collation of data of use, reviewing the policies and procedures of the seven agencies providing residential care, interviews with staff and residents, and a roundtable discussion of the key issues. Two external researchers were engaged, Associate Professor Andrew Day, Deakin University and Dr Michael Daffern, Monash University, and they were assisted in the interviews with young people by a young researcher, Ms Emily Rozee.

Our goal

Reform is focussed on improving the quality of care

Children in motel-type accommodation

We began monitoring the numbers of children in motel-type emergency accommodation in February 2005. In January 2006 we had made seven recommendations to Families SA for improving the quality of care to children accommodated in motels. A progress report was written in January 2007 which concluded that the major issues about quality of care had been addressed but that, due to the lack of alternative placements, the numbers of children had increased. An emergency accommodation strategy was introduced in mid-2006 and has had a steadying impact on growth in numbers. In 2008-09 the numbers started at 70 in July 2008, were at their highest of 71 children in April 2009, and had fallen to 49 by June 2009. While the numbers can change rapidly the overall trend is downwards. This is in the context of an 8.6 per cent rise in the number of children in care this year. In June 2009, 37 children had had stays of over 60 days.

Investigate

Statutory function

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

Our goal

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

Safe keeping orders

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

The advice answered three questions:

- Consider the ways in which similar services operate in other jurisdictions, and identify any difficulties that have been encountered;
- Identify the likely service demand for a facility of this type in South Australia; and
- Indicate a model through which referrals to such a facility may be considered.

In addition to providing the advice as requested I provided my view on the issue after listening to the views of many people with expertise in this area, visiting two facilities interstate and considering the evidence collected as part of the advice.

My view is:

- The government should not proceed with introducing the legislation and facilities for safe keeping for children.
- In the absence of other intensive therapeutic residential services, it has not been demonstrated to me that it is necessary to detain children in order to engage and provide them with an intensive service.
- There is a high likelihood of abuse of purpose of the orders and facility because there is limited access to community-based therapeutic services and over-demand on the alternative care system.

In addressing the issues of 'runaway' children, brought to light by formal inquiries such as those conducted by Robyn Layton QC and Commissioner Ted Mullighan, the priorities for attention ahead of a secure facility are:

- Improved intensive therapeutic services for children in existing residential and family-based care, including those in youth training centres.
- Improved development opportunities and supervision for children in residential care including a higher staff to resident ratio.
- Protective behaviours training and sexual health education available to all residents of residential facilities.
- Smaller numbers of children accommodated in the residential facilities, from the 10-12 now to a maximum of six.
- Greater control over admission to residential facilities to enhance resident cohesion and the therapeutic environment, and clearer definition of purpose of each unit.
- Introduction of a strategy for assisting children with high and complex needs which recognises the need for intensive and highly-skilled case management and therapeutic care.
- An outreach service that locates, engages with and supports children who are missing from placement or who are putting themselves at high risk.
- Amendment to the *Summary Procedures Act* to restrain adults who exploit children by offering them shelter, drugs, or other goods in return for sexual favours.

Our organisation

Legislation

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

Governance

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

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

The Guardian has powers necessary, expedient or incidental to the performance of the Guardian's functions.

The *Act* explicitly gives the Guardian the power to require information from government and non-government organisations that is necessary to fulfilling her functions.

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

Location

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

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

Access

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

The website is designed to be accessible to children and young people in care as well as interested adults. It conforms to South Australian Government website standards in that it complies with Priority 1 checkpoints and is working towards compliance with Priority 2 checkpoints in the Worldwide Web Consortium's Web Content Accessibility Guidelines.

Complaints

The grievances and complaints policy 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 2008-09.

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. The Office uses a fuel efficient hybrid vehicle.

Freedom of information

The legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no requests under FOI to this Office during 2008-09.

Strategic and organisational planning

The Office released its strategic plan for 2007-10 in October 2007. The Office has an annual work-plan which is reviewed quarterly.

The Office reviewed the strategic plan and reassigned some priorities in June 2009 and the annual work-plan was adjusted accordingly.

Employee numbers, gender and status

| Total number of employees (including Guardian) at June 30 2009 | |
|---|-----|
| Persons | 7 |
| FTEs | 6.4 |

| Gender | % Persons | % FTEs |
|---------------|------------------|---------------|
| Male | 29 | 28 |
| Female | 71 | 72 |

| Number of persons during 2008/09 | |
|---|---|
| Separated from agency | 2 |
| Recruited to agency | 3 |

| Number of persons at 30 June 2009 | |
|--|---|
| On Leave Without Pay | 0 |

| Number of employees by salary bracket at June 30 2009 | | | |
|--|-------------|---------------|--------------|
| Salary bracket | Male | Female | Total |
| \$0 - \$46,399 | | | |
| \$46,400 - \$58,999 | 1 | 1 | 2 |
| \$59,000 - \$75,499 | 1 | 1 | 2 |
| \$75,500 - \$94,999 | | 2 | 2 |
| \$95,000 + | | 1 | 1 |
| Total | 2 | 5 | 7 |

| Status of employees in current position at June 30 2009 | | | | | |
|--|----------------|-------------------|------------------|--------------|--------------|
| Persons | Ongoing | Short term | Long term | Other | Total |
| Male | 2 | | | | 2 |
| Female | 4 | 0 | 1 | | 5 |
| Total | 6 | 0 | 1 | | 7 |

| Executives by gender, classification and status in current position | | | | | | | | |
|--|----------------|----------|-------------------------|----------|---------------------------|----------|---------------|----------|
| Classification | Ongoing | | Contract tenured | | Contract untenured | | Totals | |
| | M | F | M | F | M | F | M | F |
| EXA | | | | | | 1 | | 1 |
| Total | | | | | | 1 | | 1 |

Workforce diversity

| Number of employees by age bracket by gender at June 30 2009 | | | | | |
|--|------|--------|-------|------------|-------------------------|
| Age bracket | Male | Female | Total | % of Total | Workforce benchmark (%) |
| 15-19 | | | | | 6.7 |
| 20-24 | | | | | 10.5 |
| 25-29 | | | | | 10.2 |
| 30-34 | | 1 | 1 | 14.3 | 9.9 |
| 35-39 | | 2 | 2 | 28.6 | 11.2 |
| 40-44 | 1 | | 1 | 14.3 | 11.9 |
| 45-49 | | 1 | 1 | 14.3 | 12.3 |
| 50-54 | | 1 | 1 | 14.3 | 11.3 |
| 55-59 | | | | | 8.6 |
| 60-64 | 1 | | 1 | 14.3 | 5.0 |
| 65 + | | | | | 2.4 |
| Total | 2 | 5 | 7 | 100.0 | 100.0 |

| Aboriginal and/or Torres Strait Islander employees at June 30 2009 | | | | |
|--|--------|-------|------------|-------------------------|
| Male | Female | Total | % of Total | Workforce benchmark (%) |
| 1 | | 1 | 14.3 | 2 |

| Cultural and linguistic diversity | | | | | |
|--|------|--------|-------|-------------|------------------|
| | Male | Female | Total | % of agency | SA community (%) |
| Number of employees born overseas | 1 | | 1 | 14.3 | 20.3 |
| Number of employees who speak languages other than English at home | | | | 0 | 15.5 |

| Employees with ongoing disabilities requiring workplace adaptation | | | |
|--|--------|-------|-------------|
| Male | Female | Total | % of agency |
| | 1 | 1 | 14.3 |

Leave management

| Average days leave taken per full time equivalent employee | |
|--|---------|
| Leave type | 2008-09 |
| sick leave | 5.7 |
| family carer's leave | 3.8 |
| special leave without pay | 0.2 |
| maternity leave | 1.6 |

| Employees using voluntary flexible working arrangements by gender at 30 June 2009 | | | |
|---|------|--------|-------|
| | Male | Female | Total |
| purchased leave | | | |
| flexitime | 2 | 4 | 6 |
| 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

Community Matters was engaged to provide an evaluation proposal for the implementation of the Information Sharing Guidelines for a fee of \$10,000.

Occupational health, safety and injury management

In 2008-09 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 the Information Sharing Guidelines and administered through the Department for Families and Communities. The revenue for 2008-09 was \$857,020.

Expenditure

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

| Financial summary of expenditure | | | |
|----------------------------------|---------------------|------------------|--------------------------------|
| Item | Actual | Budget | Variation |
| Salaries and wages | \$481,186.69 | \$558,670 | \$77,483.31 |
| Goods and services | \$283,169.65 | \$298,350 | \$15,180.35 |
| Total | \$764,356.34 | \$857,020 | \$92,663.66³ |

The staff team

During the 2008-09 financial year, seven paid staff members and five unpaid Youth Advisors worked in the office.

Guardian

Pam Simmons

The Guardian is responsible for meeting the statutory functions of the position and reporting on these, including the circumstances of children and young people in custody or guardianship of the Minister and improvements to the system of care.

Pam was appointed to the position of Guardian in June 2004. She has 25 years work experience as an advocate for social justice and change in Australia and overseas.

³ The under budget expenditure is due to unavoidable delays in recruiting staff for two of the new positions and a decision to adapt our existing office accommodation to save the additional costs of moving to a new site.

Senior Advocate (to May 2009)

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. She has a passion for youth issues and is on the Policy Council of the Youth Affairs Council of South Australia.

Office Administrator

Yvette Roberts

Yvette is responsible for the day to day running of the office as well as undertaking other tasks contributing directly to the Office's work.

Yvette has had a wide range of experience in administration including three years in aged care prior to joining the Office in January 2006.

Project Officer - Communications

Malcolm Downes

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

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

Advocates

Lisa Firth (from November 2008)

Lisa is an advocate for children and young people, with special interest and skills in the area of disability. She has worked in the disability sector for over 15 years with government and non-government agencies. She has been involved with the provision of behaviour intervention, personal support, case management, youth camps, vacation care and education and training.

Gino Iuliano (from November 2008)

Gino is an advocate for children and young people, with special interest and skills in Aboriginal issues. He has worked for 16 years in Aboriginal child protection and the alternative care system in the government and non-government sectors. Gino is a Kurna and Narunga man through his mother and identifies strongly with both of these communities.

Principal Advisor – Information Sharing

Donna Mayhew

Donna oversees the implementation and monitors application of the new 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, social inclusion and as transport manager for the largest venue for the Sydney 2000 Olympics.

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 Community Participation Facilitator for the Children Youth and Women's Health Service. As well as assisting the Office of the Guardian, she serves on the Council for the Care of Children and on the Board of the Dame Roma Mitchell Trust Fund.

David Wilkins

David assists the office on a part time basis. He is currently National General Secretary of the National Union of Students.

Eduard King

Eduard has recently made the transition into independent living. In his own words, 'I want to use this role to encourage young people in care to have a voice and to make sure that their voice gets heard in the places that matter.'

Rachel Hopkins

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

Sara Bann

Sara works in the Office of Water, Land and Biodiversity Conservation in the South Australian Government and continues to contribute her knowledge of the issues facing young people in the care system.

Membership of external committees

- Inter-Ministerial Committee on Child Development - Pam Simmons, Guardian
- Australian Children's Commissioners and Guardians - Pam Simmons, Guardian
- Across Government Guardianship Steering Committee - Pam Simmons, Guardian
- Human Resources Network - Yvette Roberts, Office Administrator

Learning and development

- Records management
- Aboriginal cultural sensitivity and respect
- Certificate IV in Business
- Child safe environments
- Youth participation
- Computer skills - Microsoft Word 2003 Introduction
- Indigenous Leadership Program