

# A YEAR IN REVIEW

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EXCERPT FROM THE GUARDIAN FOR  
CHILDREN AND YOUNG PEOPLE  
2018-19 ANNUAL REPORT



# FROM THE GUARDIAN

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In June 2019, there were 3,919 children and young people in South Australia living in out-of-home care. They ranged from newborns to those who were about to 'age out' and leave care, at 18. Every single one of these individuals is a distinct and special human being. Every single one of these children or young people deserves love, support and to be 'seen' for who they are. That is unquestionably true but in a stressed and complex system it is not guaranteed.

It is not news that the child protection system in South Australia has been in trouble for many years, a fact recognised by a succession of inquiries and commissions.

## **Too many children and young people who have been removed from their families are still not actually safe.**

In 2019 many aspects of the system are in crisis. Too many children and young people who have been removed from their families into the care of the state are still not actually safe. On a day to day basis some are harmed or at imminent risk of harm from poor decisions in the system. For those who are harmed this is both a personal crisis and a betrayal. It is also a crisis for dedicated workers who must witness these consequences in the course of their work.

This situation is linked to the number of children coming into the system and the shortage of family-based care. As a result too many children are living in residential and commercial care, where there are too few options to allow for the careful planning and matching of residents needed to promote stability and safety.



Deficiencies in placement allocation and matching, particularly for children and young people living in residential care, have remained a source of significant concern for my office. I have provided advice to the Minister about these issues in the last year.

There are other challenges. For the many, many children and young people who need skilled help to overcome the damaging effects of trauma and abuse, there are too few therapeutic care options. And the data about who needs therapeutic care is unreliable, and underestimated due to delays in formal assessment and diagnosis.

When any system is overwhelmed, it is all too easy to prioritise the needs of the system over the needs of a single child. Robyn Layton QC recognised this reality in 2003 when she acknowledged that children in care were the most vulnerable and disadvantaged South Australians and recommended that the role of Guardian be established to stand by their side and articulate and safeguard their rights in the face of a big system.

As Guardian, it is my responsibility and my privilege to ensure that where systems fail them or where their rights are breached, this is recognised and, if possible, rectified. My staff and I do this both for individual children and young people and on a systems-wide basis.

It is important to reflect that, as always, in the last year I have witnessed many examples of valiant and steadfast care by individuals in DCP, non-government agencies, foster and kinship families and in residential and commercial care facilities. I take my hat off to these champions.

The 2018-19 reporting year also brought other elements of progress and hope. DCP, together with allied agencies, has been undertaking many initiatives to respond to a multitude of challenges and improve systems. As well as strategies to recruit more family-based carers and explore alternative therapeutic placement options (including culturally appropriate programs for Aboriginal children and young people), a Lead Psychiatric Director and a Director for Disability have been appointed and there has been work to increase the representation of Aboriginal staff in DCP.

In late 2018, I welcomed the government's principled decision, based on advice from my office, to close the large (12 bed) Queenstown Community Unit and reduce the number of young people living in large scale units across the state. My advice to the Minister for Child Protection reflected the voice of young people living in the unit and reinforced concerns that have consistently been raised by this office about the conditions for children housed in large-scale facilities since 2005.

Other larger scale units have now been capped at six, with one remaining at nine. However, continuing advocacy requests to my office, the monitoring of allegations of sexual abuse under the R20 process and visits undertaken by the trial Child and Young Person's Visiting Program indicate there are still many concerns associated with the safety and well-being of young people living in these larger units. It is not just the number of unrelated young people living together that contributes to this but the matching and mix of the residents, the institutional look and feel of these buildings, including security measures such as locks on bedroom doors and kitchen cupboards, and the challenge of creating predictability and stability with relatively large numbers of rotating staff. Time and time again children and Guardian for Children and Young People Annual Report 2018-2019 3 young people tell us that having a 'homelike', functional and 'normal looking' environment is crucial to feeling safe. Despite the best efforts of many dedicated carers who work within them, this is very difficult to achieve in the purpose-built larger units.

A report on large units, arising out of the Child and Young Person's Visiting Program, will be released by my office later in 2019.

In the last year I have also welcomed the government decision to consolidate services and staff from various departments, within the Department for Human Services, to deliver and commission intervention services for families under pressure. This Intensive Support Unit builds on the work of the Early Intervention Research Directorate, which came out of the Nyland Royal Commission. I sincerely hope that bringing together staff with expertise and complementary functions from across government and investing in



some targeted pilot programs to support at-risk families in the north and west of Adelaide will result in a reduction in the number of children coming into the out-of-home care system.

While these endeavours are encouraging, they will take time to bear fruit and it remains the role and privilege of my staff and I to do our best for children experiencing the system as it is, right now, with its many crisis points, so that they are not overlooked and can have their rights upheld.

In 2018-19 GCYP Advocates responded to a hefty (58%) increase in the number of requests for advocacy for children and young people. There was also a significant increase in the number of DCP annual reviews audited by the office, which contributed to a better understanding of the circumstances of children and young people in all forms of care (residential, commercial, foster and kinship), and enabled advocacy or monitoring where some cases were of particular concern.

In addition, the office took on a new function to assist children and young people who were availing themselves of rights introduced by the Children and Young People Safety Act in 2018, to make complaints and to seek a review of DCP decisions at the South Australian Civil and Administrative Tribunal (SACAT). Rights that cannot be upheld are not really rights so it was vital to offer support in these important processes, where possible. Through standing with young people in several matters, we again observed how empowering it is when children and young people have a voice and can participate meaningfully in decisions that affect them. Both SACAT and DCP were very responsive to our feedback and advice Guardian for Children and Young People Annual Report 2018-2019 4 regarding their hearing and complaints processes and I have no doubt this will result in better experiences for the children and young people who use them.

In 2019 my office commenced a substantial inquiry into the circumstances of 'dual-involved' children and young people in South Australia, which will be completed and published later in 2019.

These are individuals who are both under the guardianship of the Chief Executive and entangled in the youth justice system.

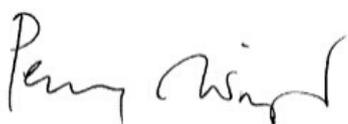
They represent more than a quarter of the population in youth detention and most of them come from residential care. The risk of 'criminalisation' of children and young people living in residential care is a phenomenon recognised by numerous commissions and inquiries in South Australia and Australia. It is vital that, as a community, we understand this risk, accept responsibility and then make the many systems changes that are necessary to protect them.

As Guardian, I am guided by two principles in my work. One is the knowledge that 'No child ever asked to end up in a situation where they need to be removed from their birth family'. By refusing ever to attribute blame or fault to those who are least responsible, I can remain focused on the things that really need to change.

## **'What would I expect and demand for my own children?'**

The second is the standard I apply to my advocacy: 'What would I expect and demand for my own children?' Particularly when it comes to issues of safety or well-being, there is no acceptable alternative. Why would any other child deserve less?

On behalf of my staff and myself, I sincerely thank everyone we have worked with over the past year. I know there are many people striving to make a difference in the lives of these children and young people, from those in Executive positions and elected office to paid staff and carers. I particularly thank the children, young people and young care-leavers we have met and learned from. They are remarkable. We look forward to continuing our work in the next year.



**PENNY WRIGHT**

Guardian for Children and Young People



# CHILDREN AND YOUNG PEOPLE IN CARE

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As at 30 June 2019 in South Australia there were 3919 children and young people under the guardianship of the Chief Executive through care and protection court orders.

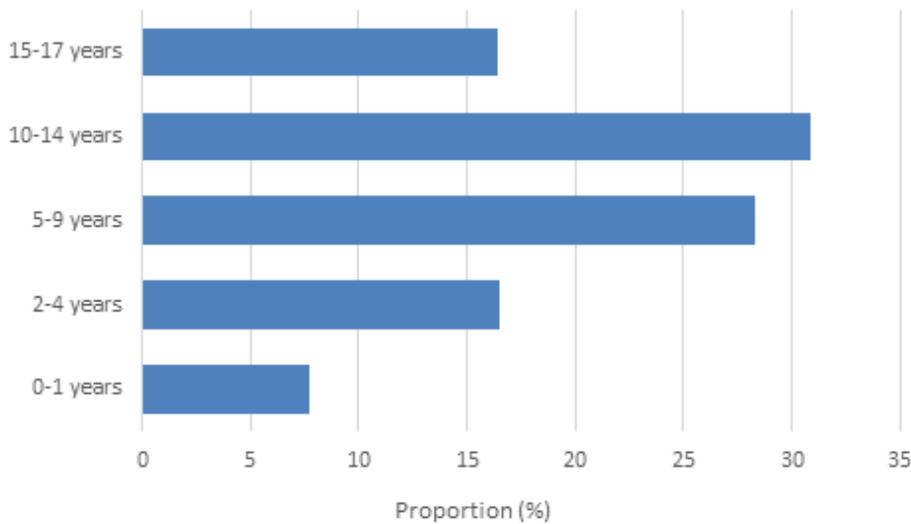
**Of the 3919 children under guardianship, 51.6% were male and 48.3% were female**

Proportion of children and young people in care by placement type at 30 June 2019 (n: 3988)\*

- Foster Care 38.6%
- Kinship Care 37%
- Residential Care 10.3%
- Specific Child Only Care 5.4%
- Temporary 3.8%
- Commercial Property 2.5%
- Independent Living 1.2%
- Family Day Care 0.7%

\*This data relates to all children and young people in care, not just those placed on guardianship to 12 months and to 18 years orders. This data is used for the Productivity Commission's annual Report on Government Services. The numbers of children and young people under the guardianship of the Chief Executive of the DCP and those classed as in care for the purpose of the Productivity Commission's annual Report on Government Services refer to similar but not identical populations

Proportion of children and young people on guardianship orders (to 12 months and to 18 years) by age in years, at 30 June 2019:



## Aboriginal children and young people

Aboriginal children and young people represent 34.9% of the care population although they make up only approximately 5% of all children and young people in South Australia. The disproportionate over-representation of Aboriginal children and young people in child protection systems across Australia has been well documented for decades and is getting worse.

As at 30 June 2019 only 31.7% of the Aboriginal care population were placed with an Aboriginal relative or kin.

37.3% of Aboriginal children and young people in care were placed with a non-Aboriginal caregiver or in non-Aboriginal residential care and 31% were placed with other Aboriginal caregivers or in Aboriginal residential care.

**34.9% of children and young people in care were Aboriginal**



# CONCERNS OF CHILDREN AND YOUNG PEOPLE

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In 2018-19 the Office of the Guardian received 462 enquiries. Of these, 406 fell within the GCYP's mandate, that is, they were requests for assistance in relation to children and young people under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection. This is a 58% increase in in-mandate enquiries from the previous year.

The 149 children and young people who directly initiated enquiries with the Office of the Guardian were living in the following care arrangements:

- Residential and commercial care (DCP & NGO) (52.3%)
- Independent living (14.7%)
- Family-based care (12.8%)
- Adelaide Youth Training Centre (11.4%)
- Other (unknown, self-placed, boarding school, reunified) (9.3%)

The primary presenting issues were:

- Safety (17%)
- Stable and secure placement (17.2%)
- Contact with significant others (12%)
- Participation in decision making (7.1%)

# HIGHLIGHTS FROM OUR OFFICE

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- Worked with the Courts Administration Authority to create a training resource for judges and magistrate that included interviews with two Aboriginal young people with experience of living in care and detention in the Adelaide Youth Training Centre
- Extended the network of advocates for children's rights to 332 Charter (of Rights) Champions, across 88 agencies
- Responded to 406 in-mandate requests for assistance, involving 526 children and young people in care.
- Audited 245 annual reviews of the circumstances of children under long-term guardianship of the Chief Executive of DCP
- Visited nearly 100 children and young people living in residential care as part of the Child and Young Person's Visiting Program
- Reported on trends in school enrolment, attendance and literacy and numeracy skills from 2007-2019 for students in care
- Completed a series of community art workshops with children and young people to create a mural for our new office premises
- Reported on costs and trends for children in out-of-home care, including a separate report on the circumstances of Aboriginal children in care and in detention
- Gave evidence to the House of Representatives Select Committee on Intergenerational Welfare Dependence
- Supported the participation of young people in SACAT hearings to review DCP decisions and provided feedback and advice to SACAT to maximise the accessibility and psychological safety of their processes
- Provided information and advice to the community and the Minister for Health regarding the proposed Controlled Substances (Youth Treatment Orders) Bill 2018
- Undertook the role of Litigation Guardian in ongoing court procedures on behalf of a young person.ed people information about the company's activities and financial performance.



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