

# NEWSLETTER

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*The Office of the Guardian for Children and Young People advocates for and promotes the best interests of young people and children under the guardianship or custody of the Minister.*

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## It's all about listening to young people

For CEO of West Coast Youth and Community Support (WCYCS), Jo Clark, the key to working with young people is listening to what they have to say and then acting on it.

'By ignoring what young people say we risk undermining their confidence and their willingness to make decisions, making them more passive and more dependent.'

'Our Youth Advisory Committee sits at the centre of all of the programs and services we provide for young people. From a pool of about 25, we get 8 or 10 to weekly meetings where we discuss progress on the projects they are interested in and new ideas and issues they want to raise.'

'When we were setting up our new Youth Hub, over 200 young people responded to a survey asking what they wanted. Some things, like free Wi-Fi, were expected but others, like a homework study space and tutoring, were also popular and they will be a part of the planning in 2018.'

'I believe that the rights in the Charter of Rights are important for all of the young people we work for, not just those in state care, and I particularly like the importance the Charter places on hearing the voices of young people - that is its real strength.'

Next to the Youth Hub is Youthoria, Port Lincoln's only cinema, providing valuable work experience otherwise unavailable to vulnerable young people. WCYCS's Youth Programs Manager Angela Perin explains how, driven by the vision of a passionate group of young people, WCYCS acquired the cinema when it closed.

'We have run it with young people for the last ten years, and for the last seven at break even or better. But the real profit is in the training and employment opportunities for Port Lincoln's young people and its benefits for the community and local community groups.'

Jo Clark explains that, with over 25 per cent youth unemployment and a very few Aboriginal people being employed in local businesses and government offices, she fears that Port Lincoln is storing up some serious social problems for the future.

'The local community and services have been able to put together some great collaborative work and Rotary have been fantastic but we have serious issues in homelessness, crime and unemployment and we really need major investment from the other levels of government.'

Watching the golden children laughing and leaping off the Town Jetty into Boston Bay in the warm evening sun, you hope that investment is forthcoming.



Jo Clark and Angela Perin  
WCYCS

# What's been done

November 2017 – January 2018

Guardian Penny Wright and Senior Policy Officer Alan Fairley attended the [Australian Children's Commissioners and Guardians \(ACCG\) meeting on 15 and 16 November](#). The group approved the new [ACCG Statement on Conditions and Treatment in Youth Justice Detention \(2017\)](#). The Guardian led the ACCG session addressing the principles and essential characteristics of therapeutic residential care, while South Australia also had a significant role in discussing policy development with respect to harmful sexual behaviours.

In December, Principal Training Centre Advocate Alan Fairley visited to the New Zealand Children's Commissioner's (Manaakitia A Tatou Tamaraki) office in Wellington discussing approaches to inspecting and monitoring youth justice facilities there and here.

The Guardian and Conrad Morris, Advocate - Aboriginal Children visited Ceduna and Port Lincoln in January, meeting local service providers and staff of the Department for Child Protection offices.

In November the Guardian attended the regular Salisbury Youth Services Network Lunch, which was covering the theme of 'State of the Sector: Kids in Care', and presented to the various youth and support workers who were there, about the role of the office in this context.

## The Child and Young Person's Visitor Scheme

The Visitor Scheme trial team acquired Project Support Officer Alice Hook. It also created the new position of Community Advocate to be recruited as soon as the position is approved as well as continuing the invisible but necessary work of setting clear policy and practice guides for the scheme.



*During his recent visit Advocate for Aboriginal children, Conrad (centre right) caught up with (from left) Anderson, Stanley and Jesse doing great work at the Ceduna Youth Hub. During the school holidays they had up to 50 young people attending the Hub.*

*'Conrad and I had a very interesting and productive meeting with the Department for Child Protection team at Ceduna'*  
*Penny Wright*





## The Training Centre Visitor Scheme

The first Training Centre Advocate for the Training Centre Visitor Scheme will be appointed shortly following a recruiting process that included participation by the residents of the Adelaide Youth Training Centre via video of the candidates. The Office has been in discussions about South Australian involvement in the OPCAT process. OPCAT, the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, was ratified by the Australian Government in December 2017.

## Publications

The Office published *The Guardian's Annual Report for 2016-17* and the *Guardian's Quarterly Newsletter* in November 2017 and launched the *Cooperation and Collaboration Survey – 2018*, with the results to be published in February.

## Requests for advocacy

In the quarter ending 31 December 2017, the Office received 62 in-mandate enquiries representing 87 children and young people. Of these, 39 were requests for advocacy, seven were consultations about action that could be taken regarding children's circumstances, seven were complaints that were re-directed and nine were categorised as 'other'.

Another 12 out-of-mandate enquiries were received during the quarter.

## Monitoring of residential care

The Office's Advocates have conducted 18 monitoring visits to Department for Child Protection residential care sites, other sites managed by non-government organisations and the Adelaide Youth Training Centre. The Advocate – Aboriginal Children, has focussed on visiting Aboriginal Family Support Services houses and making contact with Aboriginal young people seeking advocacy, those who are residents in the Adelaide Youth Training Centre and those in residential care.

Principal Community Advocate Jordan Bell attended a two-day training course on the CROC - Building Capacity on Implementation and Reporting.

## Staff changes

In mid-November we welcomed back Belinda Lorek as the Principal Training Centre Advocate, a role she shares with Alan Fairley.

In December, Alice Hook (photo right) joined the team as Project Support Officer working primarily with Jordan Bell on the trial of the Young Person's Visitors Scheme.

In January, Office Manager Nicole Pilkington and Senior Advocate Amanda Shaw, much-valued and loved members of the Guardian's team, resigned to take up positions in the public service and the Office is recruiting their replacements.



*Oog represented the Guardian's Office at the Connecting Foster and Kinship Carers Recharge 2017 event*



*Alice Hook - Project Support Officer*



Penny Wright  
Guardian

# Letter from the Guardian for Children and Young People

## The virtues of strong democracy

With the upcoming South Australian election in mind, this is a great opportunity to reflect on the benefits of having a strong and robust democracy, and highlight what it means for the work of my office.

Since I started my role as Guardian last year I have been conscious of what a privilege it is to be leading a team entrusted to advocate for some of the most vulnerable South Australians. All children are relatively powerless because they can't vote for the governments that make the laws that affect them. But children living in state care are often doubly so because they don't always have 'natural' advocates, like birth parents or families, that other kids have.

Robyn Layton QC recognised this in the course of her review into child protection in 2003, *Our Best Investment: A State plan to protect and advance the interests of children*. Ms Layton recommended establishing a statutory office of Guardian because 'There is a need to ensure that those children who are most vulnerable and who are under the statutory guardianship of the Minister or otherwise in care away from their parents have their rights articulated and safeguarded....' She further recommended that 'The Guardian should report to Parliament and .... proactively check on such children and young persons to ensure their welfare.'

And so the office of Guardian for Children and Young People was established in 2005. The role has grown but it has always been about advocating, monitoring, reviewing, inquiring and advising government – in short, championing the best interests and rights of children and young people in care.

Just as with other monitoring bodies throughout Australia, our reports and advice and advocacy are not always comfortable for the government of the day. It is, after all, our very job to hold government and departments to account on behalf of those who do not have a voice.

No democracy is perfect but I believe we are fortunate that we live in a nation where we have governments willing to respect, and pay for, mechanisms that will hold them to account. This is the ideal of *monitory democracy*, which developed in the 1940s in the aftermath of atrocities committed by leaders like Hitler and Mussolini, who were initially elected, and popular. Monitory democracy has evolved to keep a check on arbitrary power through continuous public scrutiny of government institutions, underpinned by an awareness and respect for human rights. (Professor John Keane has written extensively about this. See his article '[The Origins of Monitory Democracy](#)' in *The Conversation* (24 September 2012).

There are twelve Children's Commissioners and Guardians around Australia and numerous other commissioners (for human rights and ICACs), Ombudsmen and other officers who work to hold power to account without fear or favour. In recent times we have seen Commonwealth government-initiated Royal Commissions into Institutional Responses to Child Sexual Abuse, and the Protection and Detention of Children in the Northern Territory (Don Dale). Here in South Australia we have had the State Child Protection Systems Royal Commission (the Nyland Inquiry) and there have been various recent inquiries into juvenile justice by Australian states. Importantly, the Federal Government has recently ratified the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), which will shine a light into places of detention throughout Australia and hold the States and Commonwealth accountable.

Around the world, in this second decade of the 21st century, we see ostensibly popular but authoritarian rulers on the rise and democratic processes increasingly under threat. As I go about my work as Guardian, I often reflect that neither Putin, in Russia, nor Erdogan, in Turkey, nor a growing number of governments in other places would tolerate the work of my office, let alone fund it.

Let us give thanks for strong democracies – and let us not take them for granted.

***"No democracy is perfect but I believe we are fortunate that we live in a nation where we have governments willing to respect, and pay for, mechanisms that will hold them to account."***

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# A Training Centre Visitor for young people in detention

Penny Wright is Training Centre Visitor in addition to being Guardian for Children and Young People. Work is well underway to set up the new Training Centre Visitor (TCV) Program established by the *Youth Justice Administration Act, 2016* (the Act).

At the heart of the new program is the obligation to listen to and promote the best interests of children and young people in the youth justice system. A major milestone is the imminent commencement of the first Advocate to start developing relationships with residents at the two Adelaide Youth Training Centre (AYTC) sites.

The TCV will provide the South Australian community with independent scrutiny of the conditions and rights of children and young people in detention. This is just the sort of 'independent oversight body' proposed in recommendation 15.10 of the recent report of the Commonwealth [\*Royal Commission into Institutional Responses to Child Sexual Abuse\*](#).

The TCV will promote the best interests of AYTC residents by mechanisms such as an advocacy service and ongoing visiting and formal inspection programs. As is usual with independent positions of this sort, the TCV also can conduct inquiries about any matters referred by the Minister and can initiate an own motion inquiry about systemic reform.

In the next few months, program establishment work will prioritise dialogue with AYTC residents to advise them about the new TCV role and to build the relationship necessary to elicit and express their views, aspirations and needs. Dialogue with other stakeholders will continue or be established, particularly AYTC staff and management, and the community and government agencies with an interest in youth justice.

The detailed work necessary to create an operational framework for the TCV Program is underway including the development of appropriate standards, guidelines and policies. This will be done, as much as possible, to ensure that the TCV Program will work in line with international standards such as those that will come into force following Australia's recent ratification of the [\*Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment \(OPCAT\)\*](#).

Importantly, the Youth Justice Administration Act directs the TCV to respond to the needs of three particular groups of children and young people. They are Aboriginal and Torres Strait Islanders who are significantly over-represented, those who are under guardianship in the child protection system and those who have a physical, psychological or intellectual disability.

The TCV program will provide accessible, credible and culturally appropriate services that reflects and promote the views of AYTC residents about their care, conditions, treatment and opportunities for development. The program also will identify opportunities for improvements and promote systemic change in the youth justice sector.

The program will comply with Parliament's requirement that all state authorities protect, respect and seek to give effect to rights set out in the United Nations [\*Convention on the Rights of the Child\*](#) and other relevant international human rights instruments affecting children and young people. A focus for this will be reference to entitlements enshrined in the [\*Charter of Rights for Youth Detained in Training Centres\*](#), also endorsed by Parliament.

The TCV Program team will host a series of information sessions in the coming months to provide further information to interested stakeholders. If you would like further information or to attend, please [email](#) or phone Belinda Lorek or Alan Fairley on 8226 8570.



***The TCV will provide the South Australian community with independent scrutiny of the conditions and rights of children and young people in detention.***



# 2018 is the 70<sup>th</sup> anniversary of the United Nations Universal Declaration of Human Rights

**The Declaration is the foundation of international human rights law. It represents the recognition that basic rights and fundamental freedoms are inherent to all human beings, whatever their nationality, place of residence, gender, national or ethnic origin, colour, religion, language, or any other status. It is the ancestor of our own [Charter of Rights for Children and Young People in Care](#).**

**Since its origins in the aftermath of World War Two, the Declaration has inspired more than 80 international human rights treaties and declarations, a great number of regional human rights conventions, domestic human rights bills and constitutional provisions which together constitute a comprehensive legally binding system for the promotion and protection of human rights.**

**To mark its anniversary, this is the first a short series of articles reflecting on the importance of understanding, promoting and safeguarding rights, particularly those of children and young people growing up in care.**

Spurred by the global tragedy of the Second World War, the United Nations was formally created in October 1945 after representatives of the original 51 member countries signed or ratified the United Nations Charter. Early in its existence, the UN decided a roadmap was required to complement the Charter and to guarantee the fundamental rights of every individual. This ultimately led to the development and proclamation of the [Universal Declaration of Human Rights](#).

The Declaration was drafted by representatives with different legal and cultural backgrounds, drawn from all regions of the world. Eleanor Roosevelt, widow of American President Franklin D. Roosevelt and widely recognised as the driving force for the Declaration's adoption, chaired the drafting committee. Australia was represented on that committee by [William Hodgson](#).

When the Declaration was proclaimed by the United Nations General Assembly in Paris in December 1948, the UN consisted of 58 member states. Since then, membership has grown to 193 and the Declaration has become a global document. In 1999, the Guinness Book of Records declared it the most translated document in the world and it has been translated into more than 500 languages. One of the most remote languages is Pipil – an almost extinct language spoken in El Salvador by less than 50, mainly elderly, people. In this way, translating the Declaration has also served to preserve culture.

Over time, international human rights treaties have become more focused and specialised, addressing a variety of defined social groups and issues, many relevant to our own community. They include, for example, the *Convention on the Rights of Persons with Disabilities*; the *Convention on the Elimination of All Forms of Discrimination Against Women*; and the *Convention Against Torture and Other Cruel, Inhuman and Degrading Treatment or Punishment*.

Particularly relevant to our work is the [United Nations Convention on the Rights of the Child](#). Signed by 196 countries, and ratified by every member state of the UN, except the United States, the Convention came into force in 1990 and is the most widely ratified human rights treaty.

Under South Australia's legislation, the Guardian's Office is responsible for developing and implementing the [Charter of Rights for Children and Young People in Care](#) - which is just one of the ways the *Universal Declaration of Human Rights* and the United Nations *Convention on the Rights of the Child* influence our work.

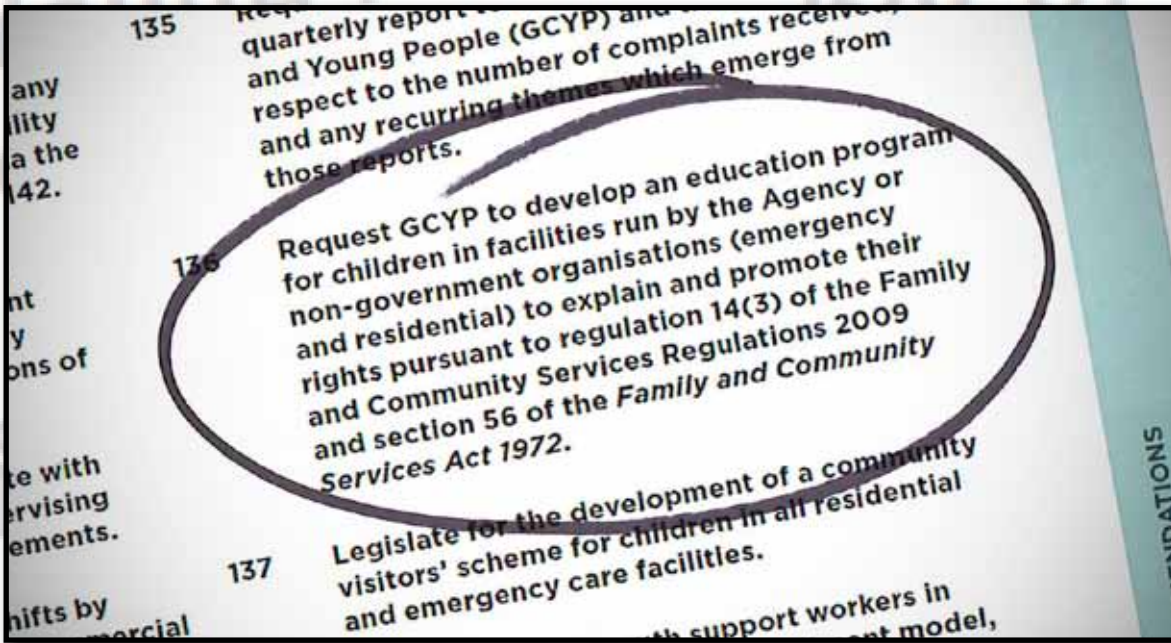
In our next newsletter, we'll look at the Convention of the Rights of the Child.

More information about the 70<sup>th</sup> Anniversary of the Declaration of Human Rights can be found on this [web page](#).



***Eleanor Roosevelt, widow of American President Franklin D. Roosevelt, is widely recognised as the driving force for the Declaration's adoption***

***...the most translated document in the world ...it has been translated into more than 500 languages...***



Following up from Commissioner Nyland's recommendation in her August 2016 report on child protection systems in South Australia, we asked CREATE to ask some young people in residential care what they knew about their rights and how they thought that they could be best protected. Here is a summary of some of the things they said.

A lot of the time it can feel like nothing happens [with a complaint] or it gets lost or stuck in the system

No matter what, [complaints] should be followed up by someone and the young person should be kept in the loop with regular communication.

It would be a great idea to come up with some categories with examples under those categories, and young people can make complaints about.

[Some reasons young people may not complain include] not knowing that they can, fear that it won't matter or go anywhere or nothing will change, having to see the person [they complain about] every day, emotional manipulation and bribes, being scared, don't know how to say it and guilt trips.

[Young people in care have the right to complain about things, like] education, where you reside, violence, abuse, neglect, staff, other children and young people, the house, living, schooling, food, dietary requirements, [when] needs are not being met [and] not seeing social worker.

[Young people would like the choice to complain by] phone, text, email, via a phone app and face-to-face.

[There should be] something like CARL for young people to report and make a complaint about workers, a 24-hour hot line. If they leave a message, it should be followed up as soon as possible the next day.

[It would be easier to complain if the child or young person's thoughts and feelings were validated and if there was reassurance, education and support. Knowing where the complaint goes, what happens to it, knowing it's being followed through and being kept in the loop [would also help].

[Some places that young people can complain are] the Office of the Guardian, DCP, DECD, Crisis Care, Cops, Yarrow Place, School, Minister Close.