

Guardian for Children and Young People Annual Report

2018-2019



Government of South Australia

Office of the Guardian
for Children and Young People

October 2019

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Office of the Guardian for Children and Young People

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Government of South Australia

Office of the Guardian
for Children and Young People

The Hon. Rachel Sanderson, MP
Minister for Child Protection
GPO Box 1072
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Dear Minister

I am pleased to present to you the annual report of the Guardian for Children and Young People for the year ended 30 June 2019, as required under section 28(2) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

This report provides a summary of the activities and achievements for the 2018-19 financial year.

Yours sincerely

A handwritten signature in black ink that reads 'Penny Wright'.

Penny Wright
Guardian

30 October 2019

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Scope

This report refers to the activities of the Guardian for Children and Young People.

The Guardian is also the Training Centre Visitor and Child and Young Person's Visitor.

The term, 'Office of the Guardian', will be used in this report to describe the combined functions and work of the office, including the Guardian for Children and Young People, the Training Centre Visitor Unit and the Child and Young Person's Visitor Program which are co-located within the office.

Full details about the Training Centre Visitor are available in its individual annual report and details about the Child and Young Person's Visitor are available in its individual annual report.

Case studies

Where case studies have been included to illustrate the work of the Office of the Guardian, identifying characteristics have been changed to protect the children's privacy but indicated ages are accurate.

Glossary

AYTC	Adelaide Youth Training Centre
CYP	Children and/or Young People (Child and/or Young Person)
CYPV	Child and Young Person's Visitor
DCP	Department for Child Protection
GCYP	Guardian for Children and Young People
TCV	Training Centre Visitor

1. From the Guardian – the year in review

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.

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 2003¹ when she

¹ R Layton, Child Protection Review, *‘Our Best Investment: A State Plan to Protect and Advance the Interests of Children’*, 2003

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 wellbeing 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

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

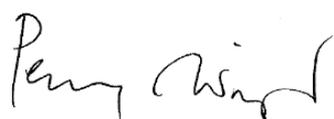
regarding their hearing and complaints processes and I have no doubt this will result in better experiences for the children and young people who use them.

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 are 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.

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 wellbeing, 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

In 2018-2019 the Office of the Guardian:

- 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. Of these requests 149 were from children and young people themselves
- Audited 245 annual reviews of the circumstances of children under long-term guardianship of the Chief Executive of DCP (6.25% of this group of children)
- Visited nearly 100 children and young people living in residential care, in 23 announced visits, as part of the trial Child and Young Person's Visiting Program
- Reported on trends in school enrolment, attendance and literacy and numeracy skills from 2007-2019 for students under guardianship compared to their age peers
- Completed a series of community art workshops with children and young people from foster, kinship and residential care and youth detention to create a mural for our new office premises
- Reported on costs and trends for children in out-of-home care, based on an analysis of the Report on Government Services, 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.

2. The Office of the Guardian for Children and Young People

The Office of the Guardian for Children and Young People includes the activities and associated staff of the Guardian for Children and Young People, the Training Centre Visitor Unit and the Child and Young Person's Visitor Program.

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.

These rights are contained in the [Charter of Rights for Children and Young People in Care](#) (the Charter), prepared and maintained by the Office of the Guardian, as required by Part 4 of the *Children and Young People (Safety) Act 2017*.

The Charter is consistent with the UN Convention on the Rights of the Child (UNCRC), which Australia has ratified. Section 5 of the *Children and Young People (Oversight and Advocacy Bodies) Act 2017* provides that every State Authority in South Australia must seek to respect and uphold those rights of children in the UNCRC when carrying out its functions and powers.

Our vision

Every child and young person in care and detention is – and feels – safe, respected, cared-for, can realise their full potential and engage with (and challenge) systems that impact upon their lives.

Our values

- We are caring, brave and tenacious in our advocacy for children and young people.
- We are mindful of the responsibility, independence and reach of our office.
- We seek others' perspectives and take decisive action to do the right thing. We are optimistic that through this commitment change will happen.
- We are committed to ensuring the voice of children and young people informs our work and are active in pursuing their best interests. We encourage others to do the same.

- We are respectful of the challenges facing children and young people and our colleagues in pursuing their best interests.
- We act ethically, with understanding and take responsibility to create confidential, safe spaces that facilitate honest and robust interactions.
- We are playful and creative in our work and encourage innovation.

2.1 The role of the Guardian for Children and Young People

Penny Wright was appointed as Guardian for Children and Young People (GCYP) on 10 July 2017 until 9 July 2022.

The GCYP is an independent statutory role that is legislated under the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* and reports to Parliament through the Minister for Child Protection.

The GCYP promotes and protects the rights of all children and young people under the age of 18 years who are under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection (previously the Minister for Child Protection, up to October 2018). To do this, the GCYP works in partnership with children and young people, their families and carers, government agencies and non-government organisations (NGOs).

The GCYP currently holds two further roles, which overlap with, and are complementary to, the functions as Guardian: Training Centre Visitor (TCV) and Child and Young Person's Visitor (CYPV).

2.2 The role of Training Centre Visitor

Penny Wright was appointed as the Training Centre Visitor (TCV) on 11 July 2017 until 9 July 2022.

The TCV is an independent statutory role established by the *Youth Justice Administration Act 2016* and reports to Parliament through the Minister for Human Services. The TCV promotes and protects the rights of children and young people sentenced or remanded in the Adelaide Youth Training Centre.

The TCV's specific responsibilities under the *Youth Justice Administration Act 2016* overlap with the Guardian's responsibilities under section 26(1)(a) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* because the category of alternative care 'includes

care provided in a detention facility for a child who is held there in lawful detention,' under section 26(4) of that Act.

Full details of the TCV Unit and reporting on those children and young people who are detained in the Adelaide Youth Training Centre, can be found in the *Training Centre Visitor's Annual Report* published separately.

2.3 The role of Child and Young Person's Visitor

Penny Wright was appointed the inaugural Child and Young Person's Visitor (CYPV) on 26 February 2018 until 9 July 2022.

The CYPV is an independent government role established by Chapter 9 of the *Children and Young People (Safety) Act 2017* and reports to Parliament through the Minister for Child Protection. The CYPV promotes the best interests of children and young people who are under court orders granting guardianship or custody to the Chief Executive of the Department for Child Protection and who are living in residential care. The CYPV's functions include visiting and inspecting residential facilities, advocating for the residents and advising the Minister for Child Protection.

Although the functions and structure of the CYPV scheme have been legislated, the scheme has not formally commenced.

The Guardian is conducting a two-year trial visiting program to inform the necessary arrangements and resourcing of the CYPV scheme when it is ultimately established. This trial program will be finalised on 30 September 2019.

Details of the CYPV trial program can be found in the *Child and Young Person's Visitor Annual Report* and the final report of the trial program, to be published later in 2019.

2.4 Who we work for – children and young people in care

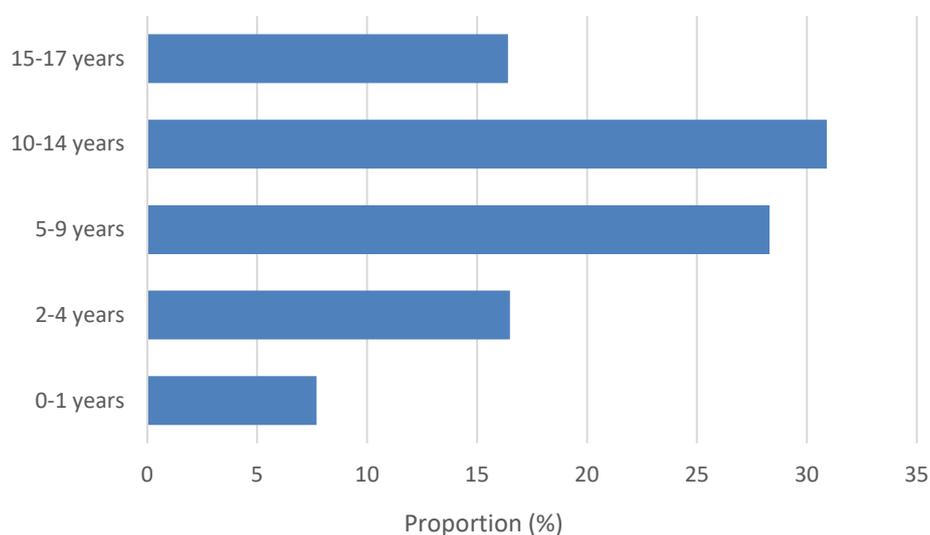
The GCYP promotes and protects the rights of South Australian children and young people who are under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

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. They had the following characteristics:

Children and young people on 12 month and 18 years orders under the guardianship of the Chief Executive at 30 June 2019 (n = 3919)

Male	51.6%
Female	48.3%
Indeterminate	0.02%
Not stated/inadequately described	0.02%
Aboriginal and/or Torres Strait Islander	34.9%
Guardianship to 12 months	13.0%
Guardianship to 18 years	86.9%

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



The living arrangements for children and young people in care are as follows:

Proportion of children and young people in care by placement type at 30 June 2019

(n: 3988)²

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%

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 overrepresentation of Aboriginal children and young people in child protection systems across Australia has been well documented for decades and is getting worse.

The Aboriginal and Torres Strait Islander Child Placement Principle is incorporated into the *Children and Young People (Safety) Act 2017*, in section 12. It requires that a child or young person in care should, where reasonably practicable, be placed (in order of priority) with: a member of their family, a member of their community who has a relationship with them (or responsibility for them), a member of their community or a person of Aboriginal or Torres Strait Islander background.

Although the rate of kinship care is 37% for the entire care population in South Australia, and despite the requirement to adhere to the Aboriginal and Torres Strait Islander Child

² 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.

Placement Principle,³ 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.

The overrepresentation of Aboriginal children and young people in residential care and commercial care is also marked. At 30 June 2019, 35.5% of children and young people living in residential care and 33.0% of children and young people living in commercial care were Aboriginal.

All Aboriginal children and young people in care must be supported to maintain a connection with their family, community and land, if it is their wish to do so. To ensure this can happen, there must be correct identification for those entering care and the accurate completion of an Aboriginal Cultural Identity Support Tool (ACIST). A completed ACIST helps ensure that information used in case planning is culturally appropriate and relevant and that Aboriginal children and young people are able to express their views and interests about their family and community.

In 2017-18, 19.2% of Aboriginal children and young people in care in South Australia had a completed ACIST.⁴

Children and young people with disabilities

The GCYP is required to pay particular attention to the needs and circumstances of children and young people who have a physical, psychological or intellectual disability.⁵ Due to current systems limitations, DCP is unable to extract reliable data pertaining to the rates of those in care who have a disability.

Estimates of the rate of disability vary between 25-30%. DCP is currently relying on NDIS plan data to ascertain numbers and is working to improve data. This is not sufficient as many of those in care have trauma-related behaviours which currently do not fit the NDIA psychosocial pathway. This can result in children and young people moving between the

³ s 12 *Children and Young People (Safety) Act 2017*

⁴ This data has been extracted from DCP's case management system, and therefore may not capture partial ACISTs that have not been entered into the system

⁵ s 26(2)(b) *Children and Young People (Oversight and Advocacy Bodies) Act 2016*

child protection, health and NDIS systems seeking assessment and services, which can in turn compound trauma. Work is required to better understand the extent of, and support needed for, those in care who have a disability or complex needs, regardless of whether they meet NDIS criteria.

DCP has appointed a Lead Psychiatric Director and a Director for Disability who will be working to address these issues.

3. The functions of the Guardian

The GCYP has statutory functions defined in section 26(1) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*:

- a) to **promote the best interests** of children under the guardianship, or in the custody, of the Chief Executive of the DCP, and in particular those in alternative care; and
- b) to act as an **advocate for the interests** of children under the guardianship, or in the custody, of the Chief Executive of the DCP and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse; and
- c) to **monitor the circumstances** of children under the guardianship, or in the custody, of the Chief Executive of the DCP; and
- d) 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 Chief Executive of the DCP and on whether the children's needs are being met; and
- e) 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; and
- f) to **investigate** and report to the Minister on matters referred to the GCYP by the Minister; and
- g) such other functions as may be conferred on the Guardian by or under this or any other Act.

This section reports on the work and outcomes of the office to meet the GCYP's statutory functions.

3.1 Promote

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

Promoting the rights of children in care as expressed in the Charter of Rights

The Office of the Guardian has responsibility for preparing, promoting and monitoring the [Charter of Rights for Children and Young People in Care](#) (the Charter) as set out in section 13 of the *Children and Young People (Safety) Act 2017*.

The Charter includes the right of children and young people 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.

At the end of June 2019, 88 agencies had endorsed the Charter, and an additional three agencies had commenced the endorsement process. There were 332 Charter Champions engaged to promote children's rights in their agencies.

Youth participation in the creation of mural

In the 2018-2019 financial year a youth participation project was undertaken by the Office of the Guardian to create a mural, painted by children and young people in care and detention, to be mounted in office's entrance. The goal was to make the new office space appealing and comfortable for children, young people and others who may visit, and celebrate the talents and creativity of those who participated.

Community Artist, Fran Callen, was commissioned to work with children and young people across all of the office's mandates to create the mural as a piece of collaborative art, designed and painted by children and young people in a series of workshops.

The mural provides a continuing representation of young people's voices, ideas and presence in the office. It will also, hopefully, provide young people with a sense of connection with the office, demonstrating what it is possible to achieve when people work together.



The Office of the Guardian collaborated with DCP, AYTC, Connecting Foster and Kinship Carers and NGO foster care agencies to complete this project.

Participants care setting	Number of workshops	Number of participants	Age range of participants	Hours of participation
Residential care	2	12	4yo – 17yo	8 hours
Foster and Kinship care	2	4	5yo – 8yo	6 hours
Adelaide Youth Training Centre	4	15	10yo – 18yo	10.5 hours
TOTAL	8	31	4yo – 18yo	24.5 hours

Gender and cultural demographics of participants

Male	Female	Aboriginal	Non-Aboriginal
17	14	18	13

Young people's participation in recruitment of staff

Section 27 of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* requires the GCYP to establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development or review processes. During this financial year, GCYP's recruitment of the Senior Advocate and several Community Advocate positions all featured input and participation (variously) by young people or young adults who had an experience of living in care. Processes include training the young person/adult in merit selection, encouraging them to generate interview questions, having them participate on interview panels and discussion of candidates, and paying them an appropriate honorarium for their work.

Young people share cultural considerations in court project

The Office of the Guardian also assisted the Courts Administration Authority in a cultural awareness training project for Judges and Magistrates with the aim of creating much more understanding and awareness of the experiences of Aboriginal people entering the justice system, including children and young people.

The GCYP Advocate - Aboriginal Children and the Training Centre Advocate, who are both Aboriginal, worked with two young people who have been detained at various times in the

Adelaide Youth Training Centre and who come from a care background. The young people who participated were eager to be involved in the project and shared their stories to camera about their lived experience of the youth justice system and what cultural considerations Judges and Magistrates need to think about when working with Aboriginal young people. The result was a moving and effective learning tool for the judiciary and the powerful experience of being respected and 'heard' for the young people involved.

Promoting the rights and best interests of children in care and detention to the community

The GCYP made the following presentations about the rights and interests of children in care and detention:

- Adelaide Youth Training Centre staff (11 and 12 July 2018)
- Flinders Uni Social Work and Education students: 'Interventions with Children and Young People' (5 October 2018)
- Department for Education's conference on bullying, panel presentation: 'Same, Same, Different' – the experiences of children in care (5 November 2018)
- Opening address to St John's Youth Services conference: 'Justice for Young People' (7-8 November 2018)
- House of Representatives Select Committee on Intergenerational Welfare Dependence (9 November 2018)
- Keynote speech to KWY National Child Protection Summit (5 December 2018)
- Family Drug Support Awareness Day (26 February 2019)
- Australian Institute of Administrative Law (28 March 2019).

Staff of the Office of the Guardian made the following presentations:

- Principal Community Advocate and Advocate to DCP Residential Care Training, Certificate IV (14 August 2018)
- Principal Advocate met with the leadership team at the DCP's Hindmarsh office and presented information on the work of the advocacy team and annual review audits (14 February 2019)
- Senior Policy Officer provided an overview of the functions of the GCYP to the Women and Children Protection Division from West Java Women's Empowerment, Children Protection, and Family Planning Office, auspiced by the Legal Services Commission (4 March 2019)
- An Advocate presented to the DCP's youth work students during their training at the Education Development Centre (5 March 2019)
- Functions of the Office of the Guardian to DCP residential care workers as part of their training program (15 and 23 May 2019)
- Functions of the Office of the Guardian to DCP social work students as part of their placement education (15 and 23 May 2019).

Sharing the knowledge and information of the office

We published 46 blogs post on our [website](#).

We published four quarterly newsletters.

We appeared in the following media:

- ABC 891 – Interview with David Bevan (12 July 2018)
- The Advertiser – Op Ed, Extending payments for CYP in Residential Care beyond 18 (13 July 2018)
- Adelaide Now – Mandatory Treatment for Drug-dependent Children (9 August 2018)
- Adelaide Now – Article on Youth Justice (24 September 2018)
- Community Radio Adelaide – Interview about GOM City, with young person, SACOSS, ‘Small Change’ (27 November 2018)
- ABC, News grabs – Controlled Substances (Youth Treatment Orders) Bill 2018 (29 November 2018)
- The Advertiser – Controlled Substances (Youth Treatment Orders) Bill 2018 (29 November 2018)
- 891 Radio Adelaide – Interview with David Bevan on Controlled Substances (Youth Treatment Orders) Bill 2018 (30 November 2018)
- Adelaide Now (and The Advertiser)- [Government closes 12-bedroom home for children in state care after a decade of warnings](#) (14 December 2018)
- The Advertiser – Op Ed, Breakthroughs helping troubled youth to fit in (27 December 2018)
- InDaily – [SA young drug bill would breach UN convention: human rights lawyers](#) (18 February 2018)
- ABC Radio National, The Law Report – [Mandatory drug rehab for children](#) (26 March 2019)
- ABC – [Should drug-addicted kids be forced into rehab? An abuse survivor and a magistrate think so](#) (5 April 2019)
- ABC 891 and ABC North-West, News grabs – TCV Pilot Visiting Report (8 April 2019)
- The Advertiser – [Youth prison staff conduct more than 830 strip-searches on children for potential contraband](#) (22 April 2019)
- InDaily – [Wade relents to pressure over contentious youth drug bill](#) (14 May 2019)
- ABC 891 and North West – News grabs (21 May 2019)
- News 24 – TV interview re ROGS Aboriginal snapshot (21 May 2019)
- ABC TV, News grabs – Aboriginal overrepresentation in OOHC and YJ detention (21 May 2019)
- InDaily – [“Concerning” drop in SA Aboriginal child placement rate](#) (21 May 2019)
- NITV, online report for Family Matters week – re Aboriginal children and young people snapshot (27 May 2019).

We published the following publications:

- [Children and Young People in State Care in South Australian Government Schools 2008-2017](#)
- [The Training Centre Visitor's Annual Report \(October 2018\)](#)
- [The Office of the Guardian's Annual Report \(November 2018\)](#)
- [The Guardian's Year in Review \(December 2018\)](#)
- [South Australian child protection expenditure from the Report on Government Services 2019](#)
- [Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2019](#)
- [Children and Young People in State Care in South Australian Government Schools 2008-2018.](#)

We made the following public submissions and responses:

- House of Representatives Select Committee on Intergenerational Welfare Dependence (September 2018)

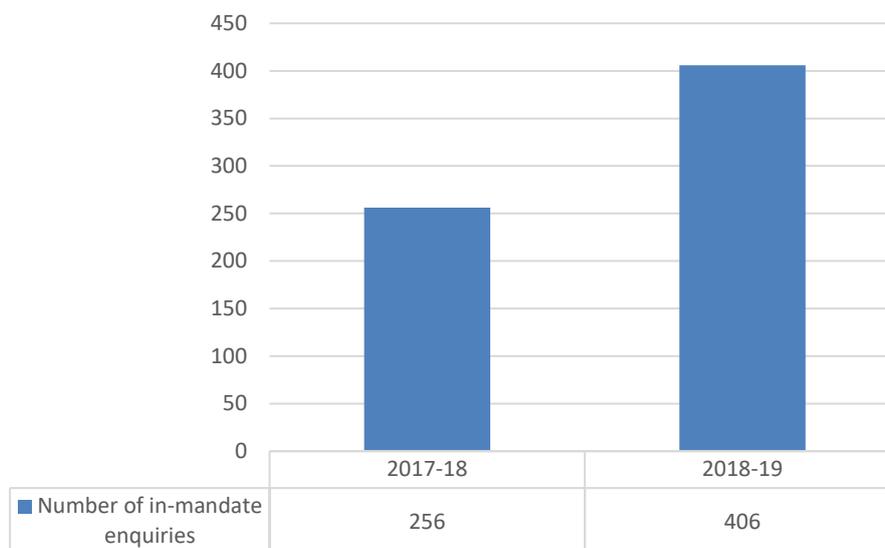
We posted content on our social media accounts:

- Twitter ([@GCYP_now](#) and [@GCYP_Penny](#))
- Facebook ([Office of the Guardian for Children and Young People](#) and [Aboriginal Children in Care in the Murraylands](#)).

3.2 Advocate

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

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.

In-mandate enquiries received by GCYP, 2017-18 and 2018-19

A single matter sometimes affects more than one child or young person in care. The Office of the Guardian received enquiries from, or on behalf of, 526 children and young people (an increase of 46% from the previous year). The office of the Guardian's intervention ranges from providing information about policies or rights through to a full review of the circumstances of a child and advocacy for change.

The 406 requests that were within the GCYP's mandate were initiated by:

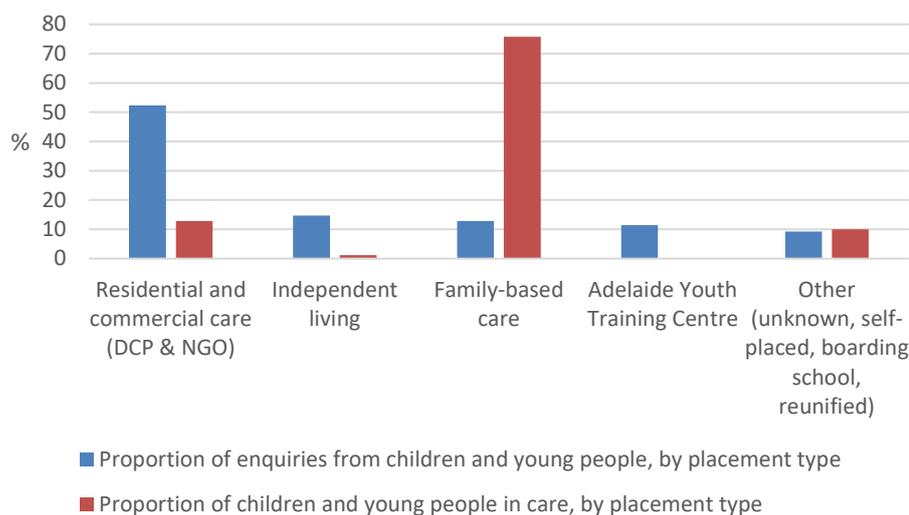
	No.	%
Child or young person directly	149	37
Adult in child's life (carer, parent, other relative)	134	33
Department for Child Protection	30	7
GCYP internal (referrals from other programs or functions)	24	6
Health, education, or youth justice	22	5
Other non-government organisations	22	5
Other	20	5
Anonymous	5	1

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

	No.	%
Residential and commercial care (DCP & NGO)	78	52.3
Independent living	22	14.7
Family-based care	18	12.8
Adelaide Youth Training Centre	17	11.4
Other (unknown, self-placed, boarding school, reunified)	14	9.3

To contextualise the rate of children or young people initiated enquiries, it is useful to contrast it with rates of children and young people in care, by care type. The chart below demonstrates that we received a highly disproportionate rate of direct enquiries from those children and young people living in residential and commercial care, independent living, and the Adelaide Youth Training Centre.⁶ Although the degree of family-based care (foster and kinship care) is high, we receive a lower proportion of enquiries from this group. It may be because they do not know we exist, they have fewer concerns or because they have other natural advocates in their lives.

Proportion of children and young people who directly initiated enquiries with the office, compared to the proportion of children and young people in care, by placement type



⁶ Please note that this chart is for illustrative purposes only. Advocacy data is collected over a 12-month period, whereas data relating to placement type is recorded on 30 June 2019, and is therefore not directly comparable. The average daily rate of those in care detained at the Adelaide Youth Training Centre in 2018-19 was 10.6 children and young people. This equates to 0.2% of the 3988 children and young people in care at 30 June 2019. This number is therefore also approximate and for illustrative purposes only.

The primary presenting issues⁷ for the 406 in-mandate enquiries were categorised as:

	No.	%
Safety	72	17.7
Stable and secure placement	70	17.2
Contact with significant others	49	12.0
Participation in decision making	29	7.1
Relationship with case worker	20	4.9
Education	15	3.6
Appropriate care	12	2.9
Access to health and disability services	11	2.7
Case management/service coordination	10	2.4
Understanding circumstances	8	1.9
Access to personal space	5	1.2
Transition from care plan	3	0.7
Cultural connections	2	0.4
Nurturing environment	1	0.2
Unknown	11	2.7
Other ⁸	88	21.6

In 2018-19 Advocates continued to report that matters tended to be of greater complexity and took longer to assess and attempt to resolve than in previous years.

The majority of children and young people who directly initiated contact with GCYP were living in residential care and commercial care arrangements, with the primary presenting issues being safety and stability in care. This is despite the primary objective of the *Children and Young People (Safety) Act 2017*, which states that the paramount consideration in the administration, operation and enforcement of the Act must always be to ensure that children and young people are protected from harm.⁹

⁷ There is often more than one presenting issue in an enquiry. The above table only reflects the primary issue for each enquiry.

⁸ Such as complaints from adults, or other issues not directly related to the rights and best interests of children and young people in care.

⁹ s 7 *Children and Young People (Safety) Act 2017*.

Advocates identified significant concerns regarding the placement matching of children and young people residing within DCP residential houses and units, non-government organisation residential houses and commercial care arrangements, including:

- Placement moves occurring at short notice, without adequate planning, and/or appropriate matching for suitability of placement or co-location with other residents, and with inadequate consultation of children and young people.
- Placement moves occurring either without, or against, the advice of persons involved in the care, or otherwise supporting the needs, of the children and young people affected.
- Further issues arising from new approaches taken by DCP to reduce reliance on commercial care, often at the expense of children and young people's safety and stability in care.
- A lack of disability-specific therapeutic placements to cater for the needs of children and young people with disabilities, as well as trauma-related behaviours.

These issues reinforced a sense of instability, unpredictability, fear, and anxiety about the future for the children and young people affected. In some cases, children and young people have been subject to serious physical and sexual abuse, perpetrated by their co-residents. In other cases, children and young people have sustained emotional and psychological harm from co-resident intimidation, bullying, verbal taunts and threats, and witnessing critical incidents of physical violence and property damage.

In consideration of the extensive trauma that many of these young people have already experienced, ongoing exposure to trauma and abuse in care creates a significant risk of harm – both immediate and cumulative.

Advocates also received a number of enquiries from, or about, 'dual involved' children and young people, that is, children and young people detained at the Adelaide Youth Training Centre (AYTC) who are also under guardianship orders. Advocates reported that, in some instances, young people detained at the AYTC have elected to remain there, in preference to returning to residential or dual commercial care placements where they feel fearful and unsafe. In other instances, young people are being unnecessarily detained for longer periods in the AYTC than would otherwise be the case, due to lack of placement availability and/or challenges in communication across the child protection and youth justice systems.

Examples of our advocacy

A group of primary school aged siblings had been living together in residential care when an older resident with challenging behaviours was moved into the house. The siblings were afraid of the new resident's behaviour, which included physical assaults, verbal threats and self-harm. The wellbeing of the youngest siblings worsened to the point where one began soiling, and another spent their time hiding in their room or under a table. Following advocacy from the Office of the Guardian, the siblings were moved into a new placement together and told their Advocate that they all felt happy and safe in their new placement.



A child with a disability was living in commercial care, where her carers did not have special training to meet her needs. The carers voiced that they were at a loss as to how to manage the child's behaviour, which included assaulting carers and property damage. The carers regularly phoned the South Australian Police for assistance. The care arrangement was extremely unsafe for both the child and the carers. The child's school also raised concerns about the child increasingly 'acting out' at school. Following advocacy from the Office of the Guardian, the child was moved to a new placement with carers better able to respond to her disability needs. The child has settled at home and at school, telling her Advocate that the new placement is "good".



Two young people disclosed to their Advocate that they had been sexually assaulted by their co-residents in residential care. Their Advocate's assessment indicated that DCP had not responded appropriately to the young people's prior disclosures of sexual abuse, resulting in the young people's ongoing placement together and exposure to further assaults. Following advocacy from the Office of the Guardian, both young people were moved to alternative placements where they reported they felt safe and were not experiencing any further abuse.



Multiple young people contacted the Office of the Guardian due to staff turning off the electricity at their residential care placement, as a behavioural consequence. The Office of the Guardian advocated against this practice, highlighting that it contravenes the *Charter of Rights for Children and Young People in Care* and the United Nations Convention on the Rights of the Child. The Office of the Guardian received notification from DCP, advising that use of this practice would be ceased immediately.

Great practice + advocacy = a powerful outcome

An Aboriginal young person living in residential care had decided it was too difficult to seek out his heritage and it was easier not to think about where he is from. Despite this, his DCP Youth Worker was instrumental in encouraging him to continue to seek out his connection and not give up, and assisted him to visit the Office of the Guardian in 2017 to start the process. During that visit the young person told the GCYP Advocate - Aboriginal Children that he had memories of spending time with family but he was unsure of his heritage and if they were Aboriginal.

Through persistent advocacy the young person came to know that he had a cultural heritage.

When he contacted GCYP again in early 2019 he shared his excitement about his trip back to his country where he met with his family and spent time connecting. He spoke about how valuable it was learning more about who he is as an Aboriginal young person and felt that it was 'because of the Youth Worker' and the GCYP advocacy that he now knows his own heritage.

GCYP is in the privileged position of observing some of the excellent practice by those working for DCP and non-government organisations in the out of home care system. When particular examples come to light, where possible, the GCYP writes to those involved, and their managers, to acknowledge their care and commitment to making a difference for the children and young people they work with.

Through the advice the office provides we ensure that what we hear and see results in systemic change

Since 2005, successive Guardians have been advocating for the closure of large-scale residential facilities. In 2018-19, Advocates continued to receive information about serious issues and concerns associated with these facilities, including assaults and bullying between residents, exposure to drugs and alcohol, predation by older people in the community, restrictive practices, exposure to the criminal justice system, and residents going missing for extended periods.

In particular, Advocates identified significant and escalating concerns in relation to the safety and wellbeing of residents at the large-scale Queenstown Community Unit (QCU).

The Office of the Guardian brought these concerns to the attention of the Minister and DCP in July 2018.

In December 2018, the State Government announced that QCU would be closed, and that the number of young people living in all large-scale facilities across the state would be progressively reduced.

The closure of QCU in May 2019 was a first step towards reducing the number of young people living in large-scale facilities. Since this time, the number of children and young people who can be placed in the remaining large-scale facilities has been capped at six.

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

This process ('R20') was established in response to recommendations 20 and 24 from the Mullighan Inquiry in 2008¹⁰, which had concluded that allegations of sexual abuse of children and young people in care, and their investigation, should be monitored and coordinated.

The GCYP receives notifications from the DCP Care Concern Management Unit in relation to allegations of sexual abuse of children and young people in care. The role of the GCYP is to monitor the progress of the investigations and to ensure that the child has an advocate. The GCYP convenes 'R20' meetings quarterly which are attended by the South Australia Police (State Crime Assessment Centre & Public Protection Branch), the DCP Investigations Unit and the DCP Care Concern Management Unit (CCMU). The GCYP also relies on the co-operation of the Office of the Director of Public Prosecutions.

In 2018-19, 44 Serious Care Concern notifications referred to the GCYP were subject to investigation by South Australia Police and/or DCP. This compares with 50 Serious Care Concern notifications in 2017-18.

In addition, the GCYP monitored 51 investigations that were ongoing from previous years.

¹⁰ E Mullighan, [Children in State Care Commission of Inquiry](#) pp.23-24 of 583.

The GCYP also received 40 Minor and 27 Moderate Care Concern notifications. This compares with 25 Minor and 18 Moderate Care Concern notifications in 2017-18.

(NB. The categorisation of these notifications as 'Minor', 'Moderate' and 'Serious' by the CCMU does not *necessarily* reflect the seriousness of the allegation but rather the circumstances in which it occurred and the response it will attract. However, those denoted 'serious' will always be formally investigated by police.)

Serious, Moderate and Minor Care Concern notifications of alleged sexual abuse 2017-18 to 2018-19

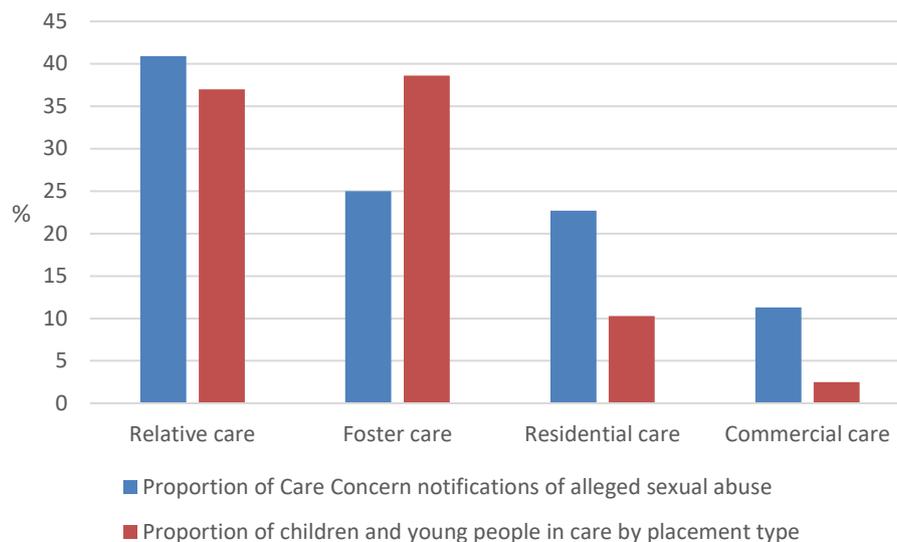
	2017-2018	2018-2019	Increase/Decrease
Serious	50	44	12% decrease
Moderate	18	27	50% increase
Minor	25	40	60% increase
Totals	93	111	19% increase

New Serious Care Concern notifications of alleged sexual abuse 2017-18 to 2018-19 by care arrangements

	2017-2018	2018-2019
Relative care	13	18
Foster care	13	11
Residential care	14	10
Commercial care	10	5
Totals	50	44

These Care Concern notifications can be contextualised by comparing their prevalence with the rates of children and young people living in each care type.¹¹ As demonstrated below, residential and commercial care represent a disproportionately high rate of serious care concern notifications of alleged sexual abuse.

¹¹ This chart is for illustrative purposes only. Care Concern data is collected over 12 months, whereas data relating to care type is taken from one day, so are not directly comparable.



New advocacy function – support for children and young people seeking SACAT review

Under the *Children and Young People (Safety) Act 2017*, the South Australian Civil and Administrative Tribunal (SACAT) gained jurisdiction over decisions made under Chapter 7 of the Act, opening a pathway for children and young people in care to challenge these decisions within the tribunal environment.

Currently there are no services within South Australia with unequivocal funded capacity to assist children and young people seeking administrative review at SACAT. As a result, the Office of the Guardian has experienced an increased demand to support children and young people who are accessing this process. This support has included:

- supporting children and young people to make an application to SACAT following a completed DCP internal review
- developing a process with DCP whereby DCP ensures a young person's access to legal representation through the SACAT process
- supporting children and young people to engage with their legal representation, attending these appointments alongside children and young people and ensuring that such services are trauma-informed and accessible
- supporting children and young people to attend SACAT hearings and attending these alongside children and young people. This can mean meeting young people ahead of their hearing, assisting them to get to the tribunal and then providing children and young people with a debrief opportunity

- providing feedback and expert advice to SACAT regarding their processes, and how to ensure these are accessible, trauma-informed and psychologically safe for children and young people, in order for children and young people to truly have their voice heard.

The Office of the Guardian acknowledges that a legal guardian would usually provide support to access legal processes to children and young people who are not in care. For children under guardianship of the Chief Executive, it is a clear conflict of interest for DCP to provide this support to children and young people seeking review of the same department's decisions.

The GCYP recognises the importance of children and young people receiving this support, especially children and young people for whom natural advocates and other supports are not present. However, this new role, together with the increase in inquiries and advocacy in the reporting year, means that the Advocacy team does not have the capacity to attend to an increase in this work within current staffing. The GCYP has given feedback to the review of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*, which has identified the importance of additional functions that will allow the Office of the Guardian to continue providing supports, such as the funded ability to be an intermediary or 'friend of the court' to assist these children and young people.

New advocacy function – role of Litigation Guardian

This year the GCYP undertook the role of Litigation Guardian in relation to a court hearing for a young person. This was a new role for the GCYP. In the circumstances it was a logical role and has been valuable in ensuring that the young person's views, wishes and circumstances are known to the court and that consideration of their best interests is as exhaustive as possible. However, it has required a significant time commitment from the GCYP and, in the absence of a Deputy or Assistant Guardian, it has been challenging to fully acquit the other, concurrent statutory roles of Training Centre Visitor and Child and Young Person's Visitor.

3.3 Monitor

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

Annual review audits

One of the key functions of the GCYP Principal Advocate is to audit DCP's annual reviews each year.¹² This is an aspect of the legislated monitoring function of the circumstances of children under the guardianship, or in the custody, of the Chief Executive.

GCYP's annual review audit process involves the following:

- reviewing the case plan and any associated documentation (genogram, Viewpoint Survey, Aboriginal Cultural Identity Support Tool (ACIST), Caregiver Survey)
- attending the annual review and completing the audit form
- clarifying information at the annual review, asking questions related to the audit (if the information has not already been covered) and providing feedback at the review meeting
- ensuring the care needs of children and young people are being met and that their rights are being upheld, including the right to participate in decision-making that affects their lives
- identifying any practice gaps/systems issues and acknowledging good practice
- making recommendations for quality improvement in the annual review process and case plans
- assuming a monitoring/advocacy function for children and young people from the annual review, where needed
- seeking to complete annual review audits in each financial year for 10% of children and young people in care
- collating annual review data for each DCP office and completing a written report (sent to the Manager of the DCP office and Regional Director); and
- collating annual review data and writing a final report for DCP Executive.

¹² Section 85(1)(b) of the *Children and Young People (Safety) Act 2017* prescribes that DCP must review the circumstances of a child or young person under long-term guardianship of the Chief Executive 'at least once in each 12 month period'.

Audit summary

In the 2018-19 financial year a total of 245 annual review audits were conducted at 11 of the 15 DCP offices providing case management to children and young people in care.

Annual reviews attended

DCP Office	Non-ATSI	ATSI	CALD	Total
Berri (Riverland)	1	6	0	7
Gawler	15	3	2	20
Hindmarsh	6	8	2	16
Kadina	9	4	0	13
Marion	54	14	3	71
Mount Barker	12	6	0	18
Murray Bridge	5	0	0	5
Port Augusta	0	9	0	9
Port Pirie	10	8	1	19
Salisbury	12	43	0	55
Whyalla	8	4	0	12
Total	132	105	8	245

Number and proportion of annual reviews audited, by selected categories

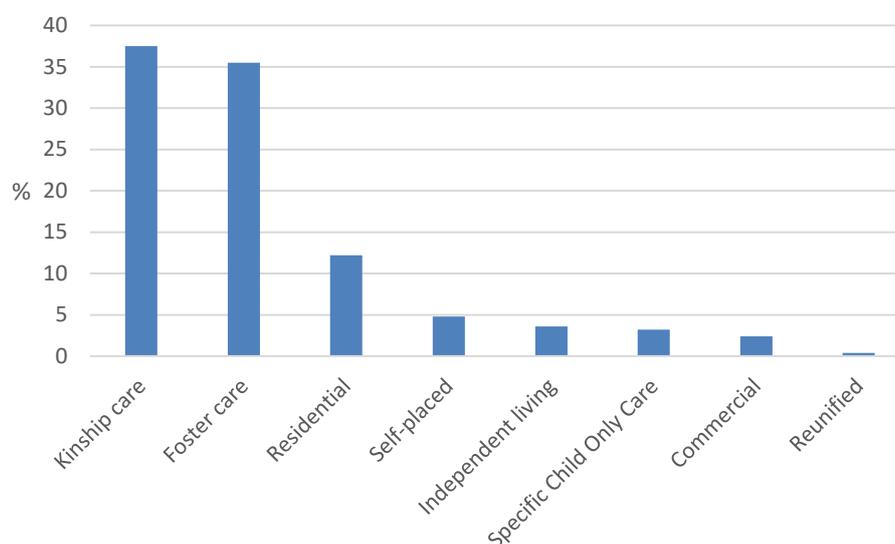
	No.	%
Male	132	53.8
Female	113	46.1
Aboriginal and/or Torres Strait Islander	105	43.0
No diagnosed disability	196	80.0
Diagnosed disability	49	20.0
Eligible CYP who had an NDIS Plan	21 ¹³	75.0

¹³ 49 children and young people (20%) had a diagnosed disability, with NDIS plans in place for 21 of the 28 (75%) who were eligible to receive NDIS funding. NDIS plans had been commenced for 2 of the remaining 7 children and young people in this cohort.

Number of annual reviews audited by age group

	No.	%
0-4 years	36	14.6
5-9 years	62	25.3
10-14 years	91	37.1
15-17 years	56	22.8
18+ years	0	0

Annual review audits were conducted across all care types, with the highest number being for children and young people living in family-based care. The annual review audit function is the primary interface between the Office of the Guardian and children and young people in foster and kinship care.

Proportion of annual reviews audited, by placement type

In line with DCP's Practice Guidance for Annual Reviews, 226 annual reviews (92%) were chaired by an independent practitioner. The remaining 19 reviews (8%) occurred in a regional area, identified in the guidance as an exception to requiring an independent chairperson. In these instances, the Principal Advocate observed the chairperson (DCP Supervisor) to operate objectively, and with sound facilitation and engagement skills. Of the 105 reviews audited for Aboriginal and Torres Strait Islander children, 95 (90%) had an Aboriginal representative on the annual review panel.

Of the 105 Aboriginal and Torres Strait Islander children whose annual reviews were audited, 24 (22.8%) had an Aboriginal Cultural Identity Support Tool (ACIST) completed, 66 (63%) had an ACIST commenced and 15 (14%) did not have an ACIST. Copies of the ACIST were rarely provided to the annual review panel and, in most of the instances where the ACIST was provided, the tool was primarily incomplete and unsigned.

Child and young person participation

Attendance of children and young people at their annual reviews was low, with one-fifth participating directly; 52 (21%) attended in person and one linked in by phone. Reasons for non-attendance included: 'not invited' (45; 23%), 'invited but declined' (42; 22%) and 'other commitments' (67; 35%) such as school, camp or on holiday. Young age of child (12; 6%) was also cited for non-attendance at the annual review.

Almost half of the children and young people (119 (49%) had not completed Viewpoint surveys, with the reason cited as 'young age' for 42 (17%) and 'refusal to complete' for 18 (7%). In many instances where Viewpoint surveys had been completed, these were either out-of-date (over 12 months old) or not reflective of current circumstances (with major changes having occurred for the child or young person, such as placement breakdown, since survey completion). Additionally, copies of completed surveys were generally not provided to the annual review panel and Viewpoint data was rarely incorporated into case plans, as part of 'child's views'.

Including a photo of the child in the case plan, or providing photos at the annual review, helped to personalise the process and keep it child-centred, particularly if the child was not in attendance. 175 case plans (71%) included a photo of the child, noting that the audit did not record this information for 21 children. The 'What you need to know about me' section in DCP's case plan template is a welcome addition as it provides a strengths-based focus on the child and helps to 'bring to life' children as individuals.

Child and young person's voice

The strength of the child and young person's voice at annual reviews was 'very strong' for 6 children and young people (2.5%), 'strong' for 58 (24%), 'moderate' for 135 (55%), 'weak' for 21 (8.5%) and 'very weak' for 6 (2.5%). It was particularly powerful when children and young people attended their review.

Voices of children and young people from annual reviews

A 9-year-old Aboriginal boy brought a written list to his annual review meeting, asking for one-on-one time with his Nanna and longer contact time with his brothers and sisters. He was also wanting to know more about his dad and why his father left him.



A 16-year-old Aboriginal girl stated she wanted to see her siblings, aunties and cousins more often, advising she had not seen her 9-year-old brother for over four years.



A 15-year-old young person dearly wished to meet his two pre-school age siblings (also in care) and get to know them: *"I have been asking since the beginning, and nothing has really happened...I have talked to everyone about wanting to see them...I feel really sad about it and I find it really difficult and stressful...It would mean a lot to me to meet them and get to know them and see them grow and stuff."*



"I want to get a family to live with, with kids, a dog, a cat and a bird." (8-year-old child, who has been living in commercial care for over two years).



"I'm happy (at home) and I don't want to feel different. I just want to be a normal kid." (14-year-old young person in foster care).



"I am one of the family and will stay with my family as long as I can...I love living with my family." (12-year-old Aboriginal girl, living in an Aboriginal foster family).



"[You can help me by] giving me my space but also checking up on me every once in a while to see how everything is going." (17-year-old girl in independent living).

Child and young person wellbeing checklist

The Office of the Guardian has developed 12 wellbeing statements for children and young people in care, reflecting their rights as outlined in the *Charter of Rights for Children and Young People in Care*.

The wellbeing checklist below documents, for each wellbeing statement, the percentage of children and young people for whom the statement was assessed as being 'Met' from their annual review audit.

Children and young people for whom the GCYP wellbeing statement is assessed as 'Met' from their annual review audit

	%
1 This child lives in a kind and nurturing environment	85
2 This child is safe and feels safe	92
3 This child is treated with respect	93
4 This child is receiving appropriate shelter, clothing and nourishment	95
5 This child is cared for in a placement that is stable and secure	81
6 This child has a secure personal space to which she/he can withdraw and where personal things are kept safe	59
7 This child has contact with family, friends, and cultural community that provide emotional support and identity	93
8 This child has access to health and disability services that meet his/her needs	96
9 This child is getting an education suited to his/her needs and the opportunity for artistic, cultural and sporting development	89
10 This child understands to the full extent of his/her capacity why he/she is in his/her current circumstances	80
11 This child has knowledge of and participates in decisions that affect him/her	73
12a This child has regular contact with the same case worker	73
12b This child's case worker is skilled, knowledgeable, and respectful	91
12c This child's case worker advocates energetically in the child's best interests	30

The above figures need to be qualified for statements numbers 6 and 12c. Information was rarely provided in the case plan or at the annual review meeting about whether children and young people had personal space for privacy and belongings (e.g. their own bedroom).

The figure of 30% for energetic advocacy by case workers in the best interests of children is based on a set of indicators evidenced at the annual review. While a combination of these indicators was present for approximately one third of case workers, this is not to suggest the remaining 70% of workers do not advocate energetically for children, but rather that sufficient evidence could not be found as part of the annual review process to demonstrate this.

Indicators used for a finding of 'met' for energetic advocacy by the case worker include:

- a current case plan that incorporates the child's views, carer's views, care team feedback and lists SMART (Specific, Measurable, Achievable, Relevant and Timely) actions linked to identified issues and needs
- the case worker's presentation at the annual review (i.e. the way they verbally present case plan information and discuss their work with, and for, the child or young person)
- examples of advocacy provided at the annual review meeting
- responsiveness of the case worker in addressing issues and needs of the child or young person
- observation of dynamics (open and positive interactions) between the case worker and child or young person at the review meeting
- feedback provided at the review meeting by the child or young person, carer, line manager and/or other care team member/s.

GCYP advocacy/monitoring from annual reviews

GCYP assumed a 'best interests' advocacy or monitoring function for 25 children and young people (10%) from their annual reviews. Advocacy was undertaken for two Aboriginal young people (one residing in residential care and one in independent living) due to significant safety concerns. There were pre-existing advocacy matters with GCYP for another two young people in relation to placement safety and stability in residential care, and schooling for a foster child.

Monitoring reasons were primarily due to concerns with safety (for 11 young people; 44%) and placement stability (for 7 young people; 28%). Additionally, the voice of the child or young person was assessed as either 'weak' (9) or 'very weak' (2) at the annual review, due to non-attendance at the meeting, not having a current Viewpoint survey, not having their views incorporated into the case plan and, in some instances, not having a Case Manager or carer present to represent their views.

Reflection

It was a privilege for the Principal Advocate to attend annual reviews at DCP's offices across the state and to hear first-hand from children and young people as part of this process. It was also wonderful to see the heart-felt commitment of many foster and kinship carers to creating a loving home for children and young people in care and to making a positive difference in their lives.

3.4 Advise

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 Chief Executive of the DCP and on whether the children's needs are being met.

The GCYP provided the following advice to the Minister:

- Information for the Minister for Child Protection about Queenstown Community Unit (July 2018).
- Advice regarding placement Issues (detrimental placement changes, inadequate placement matching and inadequate transition planning) (31 July 2018).
- Copy of Advice provided to DCP in relation to floor plans for residential facilities at Davoren Park (31 July 2018).

3.5 Inquire

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

As discussed under the Advocate function ([page 18](#)), the GCYP has continued to see a significant increase in the number and complexity of requests for advocacy for individual children and young people. Consequently, the GCYP did not have the resources available to

conduct any major inquiries in 2018-19, but continued work on the systemic issue of placement matching, which will inform a subsequent report to the Minister during the 2019-20 reporting year.

The Office of the Guardian has commenced an inquiry into the circumstances of ‘dual-involved’ children and young people (those who become detained in the Adelaide Youth Training Centre and are from a care background) which will be finalised in the latter half of 2019.

3.6 Investigate

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

There were no matters referred to the GCYP by the Minister.

4. The trial Child and Young Person's Visiting Program

The Office of the Guardian has been conducting a trial visiting program to children and young people living in residential facilities since July 2017.

The Child and Young Person's Visiting Program arose from the 2016 SA Child Protection Systems Royal Commission, when Commissioner Margaret Nyland endorsed the establishment of a visiting scheme specifically for children living in residential care facilities. Recommendation 137 of the Nyland Report states:

*'Legislate to provide for the development of a community visitor's scheme for children in all residential and emergency care facilities.'*¹⁴

As a result of the SA government's response to the Nyland Report, 'A Fresh Start,' in 2017 DCP asked the GCYP to undertake a 'two-year pilot visiting scheme for 100 children and young people in residential and commercial care facilities, to be finalised in June 2019'. The finalisation date for the scheme was subsequently extended to 30 September 2019.

Visiting commenced in September 2018 and finished in August 2019.

It is anticipated that by the finalisation of the program, 24 individual facilities will have been visited, with a bed capacity ranging from two bed to six bed, located in northern, southern and western metropolitan Adelaide and a northern regional area.

It is anticipated that the target of visiting 100 individual children and young people will be achieved within the specified timeframe. Repeat visiting to some facilities poses a challenge to this target but is being undertaken to provide valuable information to compare the benefit of more frequent and repeated visits with one-off visits.

Formal visit reports are provided to DCP, with recommendations for action that range from a focus on the needs of individual children and young people through to facility matters and

¹⁴ M Nyland, *'The life they deserve: the Child Protection Systems Royal Commission Report,'* South Australia, 2016, p xli

broader systemic issues. DCP has accepted the great majority of recommendations made at this stage.

To date, the trial has given rise to a series of clear outcomes and benefits to individual children and young people, relating to physical and emotional safety, health and wellbeing, cultural identity, connection with family, access to education, participation in decision-making and the circumstances of their life, decisions about placement and personal development and interests.

Staffing of the program has comprised a Principal Community Advocate, Community Advocates (for visiting) and a Project Officer. Two consultations with children and young people have been undertaken and the program is being evaluated by the Flinders University of South Australia SWIRLS (Social Work Innovation Research Living Space). A final report will be provided to DCP with details from the report to be published on the Office of the Guardian's website late in 2019.

Since the advent of the trial program the formal position of Child and Young Person's Visitor has been legislated in Chapter 9 of the *Children and Young People (Safety) Act 2017* and the Guardian has been appointed, ex officio, to that role. At this stage the additional functions attached to the role have not been formally resourced. It is anticipated that the final report of the Child and Young Person's Visiting Program will inform decisions about the shape, scope and resourcing of a future visiting scheme.

5. About the Office of the Guardian

5.1 Legislation

The role of the GCYP was originally established in an amendment to the *Children's Protection Act 1993*, proclaimed on 1 February 2006. Amendments were subsequently made to strengthen the independence and powers of the role, particularly in response to recommendations made in the Mullighan Inquiry Report.¹⁵

In 2017, the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* re-established the GCYP's role, the same legislation for the Child Death and Serious Injury Review Committee and the two new entities, the Commissioner for Children and Young People and the Child Development Council.

The *Children and Young People (Safety) Act 2017* provides the statutory basis for the *Charter of Rights for Children and Young People in Care*.

5.2 Governance

Under the Act, the GCYP is appointed by the Governor and has statutory functions and reporting requirements as previously discussed 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 Chief Executive of the DCP. The GCYP provides advice to the Minister for Child Protection on these matters.

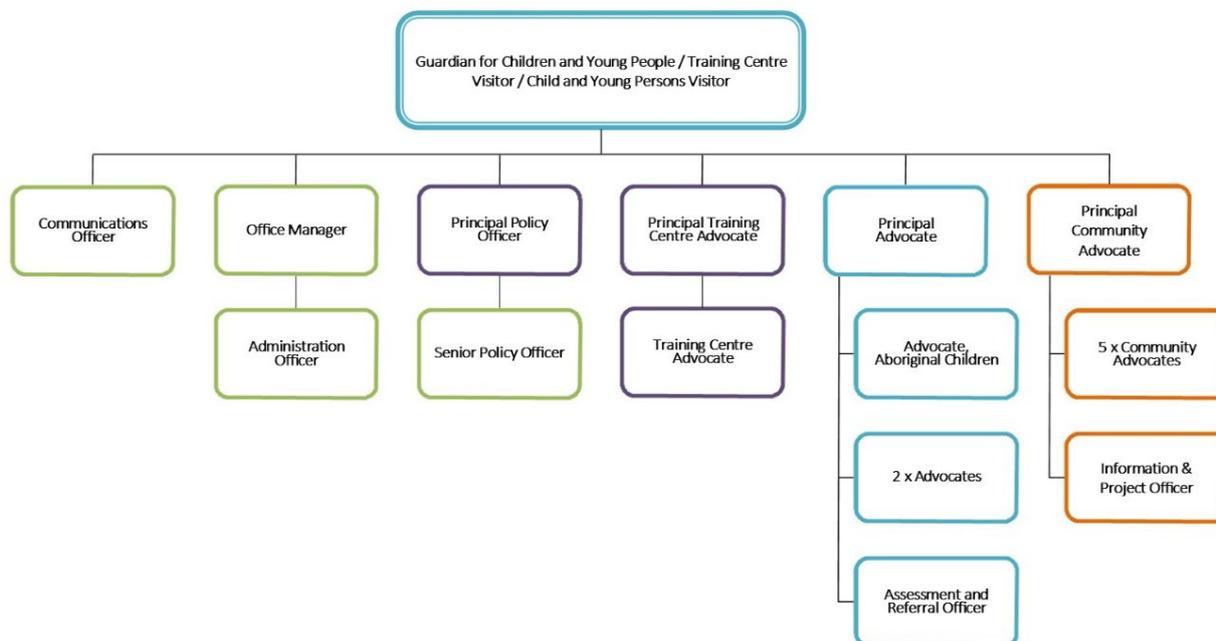
The GCYP is not subject to directions from the Minister which inhibit inquiries or investigations, prevent or restrict communications or which limit the content of advice, reports or recommendations made in fulfilling the statutory functions.

The GCYP has powers necessary, expedient or incidental to the performance of her functions. The Act explicitly gives the GCYP the power to require information from organisations and people that is necessary to fulfil the functions.

The GCYP must establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development or review processes.

¹⁵ E Mullighan, *Children in State Care Commission of Inquiry Final Report* (2008).

5.3 Organisational structure



5.4 Work health and safety

There were no work health and safety claims during 2018-19

5.5 Complaints

There were no formal complaints made to the Office of the Guardian about the service in 2018-19.

5.6 Freedom of information

Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*.

There was no FOI request for other information during 2018-19.

5.7 Membership/participation on external committees

The GCYP is a member of:

- Australian and New Zealand Children's Commissioners and Guardians network
- Renewed Rapid Response Working Group

- Interagency Children and Young People's Safety Steering Committee
- Exceptional Needs Executive Committee
- Statutory Authorities Group and Rights Protection Agencies Network
- Children and the Law Committee, Law Society of South Australia
- Australian Lawyers for Human Rights
- Youth Court Stakeholders Group
- National (Detention) Inspectors' Teleconference Group
- Child Safety and Wellbeing Advisory Panel
- Aboriginal Family Support Service Child Protection Reform Steering Committee.

The Advocate - Aboriginal Children is a member of:

- Family Matters Working Group
- DCP Principal Aboriginal Consultants Meeting.

6. Financial

Financial services are provided by the Department for Education. The financial operations of the Office of the Guardian are consolidated into and audited through the Department for Education. Budgets for the Child and Young Person Visitor and Training Centre Visitor programs are also provided below.

Financial Summary of expenditure 2018-19 ('000)

Project 996: Guardian for Children and Young People

Item	Actual	Budget	Variation
Salaries and wages	1,018	1,084	66
Grants, goods and services	845	950	105
Total	1,863	2,034	171

Financial Summary of expenditure 2018-19 ('000)

Project 972: Community Visitor Scheme

Item	Actual	Budget	Variation
Salaries and wages	423	354	-69
Grants, goods and services	53	128	75
Total	476	482	6

Financial Summary of expenditure 2018-19 ('000)

Project 973: Training Centre Visitor

Item	Actual	Budget	Variation
Salaries and wages	311	311	0
Grants, goods and services	54	49	-5
Total	365	360	-5
Revenue	-360	-360	0
Net	-5	0	-5

Executive employment in the agency

Executive classification	Number of executives
SAES1	1

Contractors disclosure

The following is a summary of external contractors that have been engaged by the office, the nature of work undertaken, and the actual payments made for work undertaken during the financial year.

Contractors with a contract value below \$10,000

Contractors	Purpose	\$ Actual payment
Relationships Australia	Care leaver discussion group project	5,200
Yellowscope Pty Ltd	Youth Justice Charter of Rights project	7,000
Fran Callen Artist	Artist for Mural project	5,090
Ulrike Marwitz	CYPV Program Residential Care research project	2,209

Contractors with a contract value over \$10,000

Contractors	Purpose	\$ Actual payment
Bonnie Parker	Communications support	10,818
Yellowscope Pty Ltd	Common Engagement Framework project	13,200