

Guardian for Children and Young People

# ANNUAL REPORT 2005-06



Government  
of South Australia

Office of the Guardian  
for Children and  
Young People

The Hon Jay Weatherill MP  
Minister for Families and Communities  
GPO Box 2269  
ADELAIDE SA 5001

Dear Minister

I am pleased to present to you the annual report of the Guardian for Children and Young Persons for the year ended 30 June 2006, as required under Section 52D(2) of the *Children's Protection (Miscellaneous) Amendment Act 2005*.

This report provides a summary of the activities and achievements for the 2005-06 financial year.

Yours sincerely

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

Pam Simmons  
Guardian

29 September 2006

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# What we do

The Office of the Guardian for Children and Young People promotes and protects the rights of all children and young people under the age of 18 years in alternative care. This includes those who are in relative or kinship care, foster care, residential care or secure care.

The position of Guardian for Children and Young Persons was established in an amendment to the *Children's Protection Act 1993* passed on 1 December 2005 and proclaimed on 1 February 2006.

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

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

## Functions

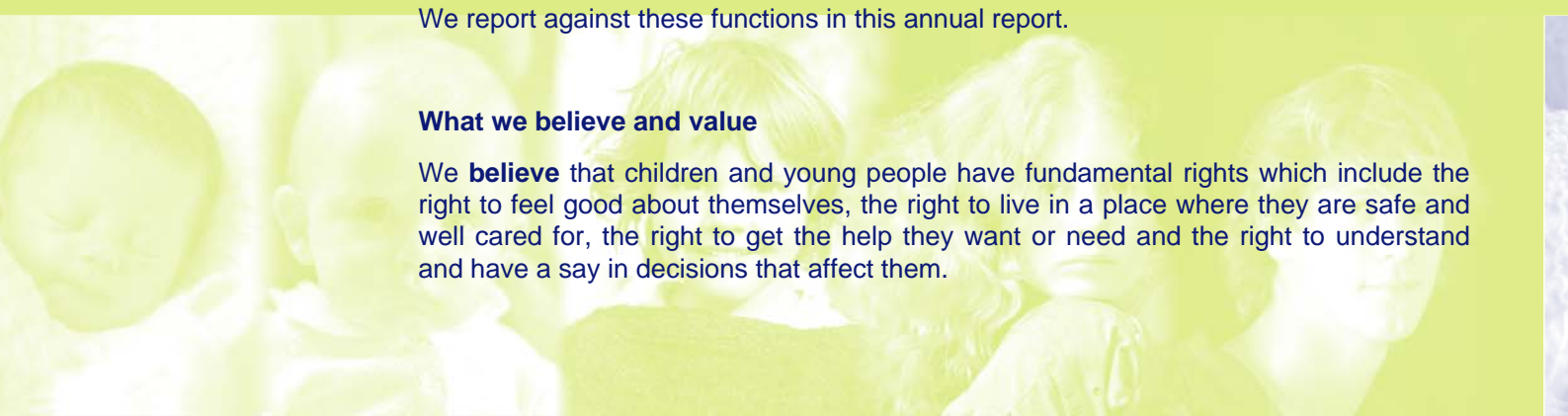
Under the establishing legislation the Guardian has six statutory functions:

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

We report against these functions in this annual report.

## What we believe and value

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



We **value:**

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



# The year in review

This is the first full year of operation of the Office of the Guardian and much has changed from the last report.

On the broader front the implementation of the *Keeping Them Safe* child protection reform program is well advanced. Fundamental to the reforms are ensuring that the community as a whole understands and responds to children in need of care and protection and that the government as a whole accepts their responsibilities for children in state care. It is an exciting time to be introduced to the child protection system as there is an air of significant, and overdue, change.

To support the reform program, legislative amendments to the *Children's Protection Act 1993* were passed on 1 December 2005. Some have been proclaimed and others will be later in 2006. The amendments include new obligations for child safe environments, strengthening the voice of the child in matters that affect them and that the best interests of the child are placed firmly ahead of other interests. There are three significant improvements to child protection advice, review and accountability in the appointment of a Council for the Care of Children, a Child Death and Serious Injury Review Committee and the Guardian.

The legislative functions and powers that apply to this Office are consistent with the functions we had been working to prior to the *Act* and the delegated powers granted in 2005. The functions of the Guardian are reported on in the body of this report (see Functions and outcomes, page 7).

Noticeable over the course of the year have been improvements to the level of services provided to children in state care. This is partly as a result of targeted and additional spending on *Keeping Them Safe* commitments and partly due to the government's commitment to providing priority access for children and young people under guardianship to government services (*Rapid Response*).

The *Rapid Response* framework and action plan is a significant step forward in assisting the most disadvantaged children in South Australia. In field consultations conducted by this Office we heard that access to mental health and dental services had improved. Implementation of the plan continues and we expect similar improvements in access to further education courses, disability services, housing and other health services. The commitment is strong and championed by Ministers and senior officers alike.

Also significant is the introduction in 2006 of Individual Education Plans (IEPs) for students of public schools who are under the Minister's guardianship. Data on school performance shows that students under guardianship are the most disadvantaged cohort of the school population. While it is early days to report on outcomes of IEPs the

evidence overseas and interstate indicates that well supported individual plans will make a significant difference.

Ministerial monitoring of progress on the *Keeping Them Safe* reform program lies with the Inter-Ministerial Committee on Child Development. The Guardian participates in this Committee. The two other major programs advanced by this Committee are the *Every Chance for Every Child* health policy for families with young children and the government's response to *The Virtual Village: report of the inquiry into early childhood services*. The exchange of information and ideas across the three areas of education, health and child and family services is vital to the healthy survival and development of all children. The plan for 20 children's centres which bring together family services, childcare, early childhood education and child health services should provide a more convenient and effective service to parents and children.





### Significant Achievements 2005-06

Development and release of the *Charter of Rights for Children and Young People in Care*

Production of 'being in care' information for children prepared by young people in care

Children's positive reaction to the OOG – the safety symbol for children in care

Responding to 152 requests for assistance for individual children, 80 of which were the subject of further enquiry or investigation

Also vital to the health and wellbeing of children is strong family support. There is a critical gap in services to families in crisis and, as a result, struggling to provide adequate care for their children. These are the children who should not be brought into state care but who are likely to be if help is not available. The gap has been recognised and is being investigated through the Vulnerable Infants Services Plan. I hope that the exercise does not stop at coordination of existing services but addresses the sizeable service gaps.

Working with our Youth Advisers, the Advisory Group of young people in care and the CREATE Foundation

Release of an information paper and fact sheet on safety in care

Investigation and early development of a services bank for children and young people in care

Moving to a more accessible and child-friendly office

Fifty three presentations on children and young people in care to a diverse range of audiences

An expert and committed staff team

The other major area requiring attention is the alternative care system. Alternative care services in South Australia do not adequately respond to the family support and child placement needs in the community. We have a growing number of children requiring care and a lack of suitable placements. Our experience mirrors the situation interstate and overseas. Good forward planning is essential in these circumstances to counterbalance ad hoc service development driven by reaction and crisis. Joint planning, involving all stakeholders, would need to address shortages in the range of placement type, inadequate reimbursement for the costs of caring, inadequate support for carers and children at times of stress, and application of standards in the provision of services. It would also contribute to mending the strained relationships between the parties that compromises their ability to work together in the interests of the children.

In July 2005 a South Australian Parliamentary Select Committee on the Youth Justice System released its inquiry report with a strong theme of enhanced intervention with young people at risk and their families. There is more work to be done in this area, not least by this Office. The mandate of the Guardian covers children and young people in custody as a result of a youth justice order. Of immediate concern to us is the young age that children can be detained in custody, the high number of children and young people who are unnecessarily incarcerated for lack of community-based options, the high number of Aboriginal young people in custody and the deficient state of the secure care facilities. However, systematic monitoring and reporting from this Office on the quality of secure care has not commenced.

Pam Simmons

Guardian

# Who we work for

We promote and protect the rights of the approximately 4 in 1000 South Australian children and young people under 18 years who are in alternative care. This includes those who are in relative or kinship care, foster care, residential care or secure care. Priority is given to those children and young people who are the subjects of a guardianship or custody court order.

As at 31 December 2005 in South Australia there were 1,477 children and young people under the guardianship or custody of the Minister, not counting the 139 on interim or temporary orders.

These 1,477 children and young people had the following characteristics:

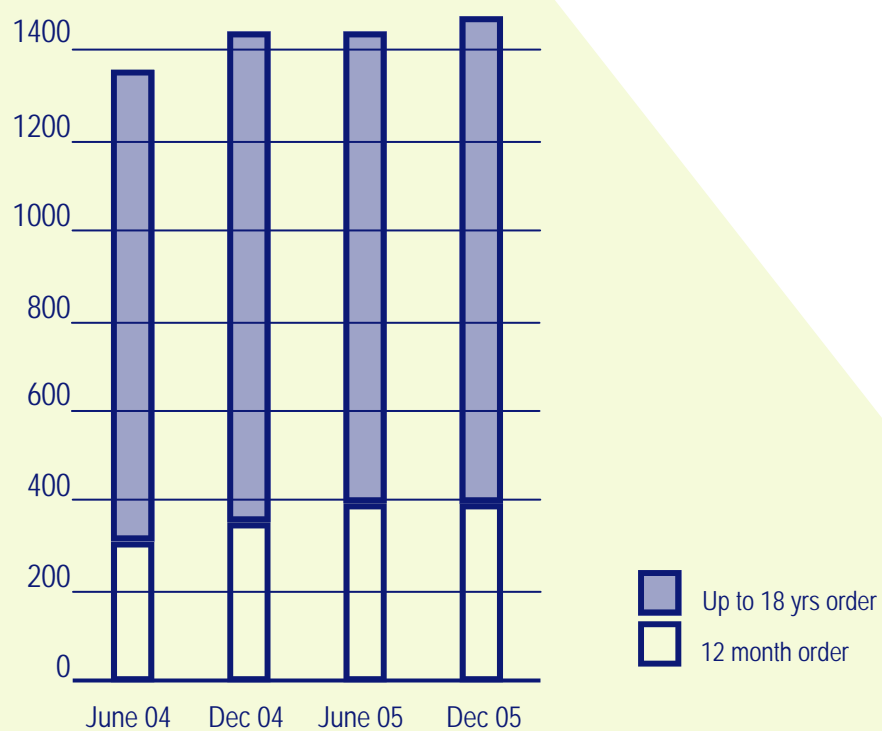
<i>care arrangements</i>		
	in foster care	70%
	in relative care	22%
	in residential care	4%
	other home based care	5%
<i>ages</i>		
	15 and over	21%
	10-14 years	33%
	5-9 years	25%
	0 to 4 years	21%
<i>gender</i>		
	females	49%
	males	51%
<i>aboriginality</i>		
	Aboriginal*	22%
<i>types of order</i>		
	long term care and protection order	73%
	12 month care and protection order	27%
<i>disability</i>		
	with some form of disability and accessing services	9%

\* Of these, 71% were placed with Aboriginal caregivers while a further 7% were placed with Non-Aboriginal relatives.

Since the formation of this Office, there has been a gradual growth in the number of children and young people coming under the custody and guardianship of the Minister in South Australia.



Number of children under the guardianship of the Minister



# Functions and outcomes

The Guardian has six functions defined in section 52C of the *Children's Protection (Miscellaneous) Amendment Act 2005*:

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

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

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

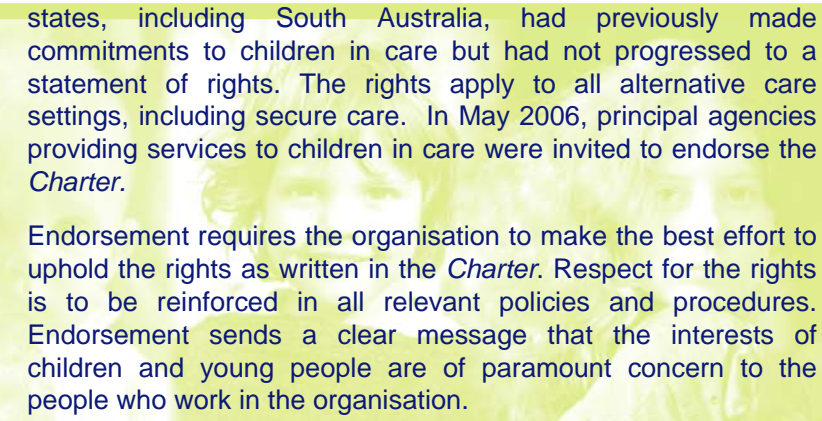
The overarching function of promoting the best interests of children and young people in care is addressed here and throughout all subsequent functions reported on below.

### *Charter of Rights*

In April 2006 the *Charter of Rights for Children and Young People in Care* was released. This followed fourteen months of development including consultation with children and young people, carers, social workers, health workers and educators. The final stage was led by young people in care who endorsed the final charter and advised on its design, distribution and promotion.

The *Charter* is specific to children and young people in care in South Australia. Most states, including South Australia, had previously made commitments to children in care but had not progressed to a statement of rights. The rights apply to all alternative care settings, including secure care. In May 2006, principal agencies providing services to children in care were invited to endorse the *Charter*.

Endorsement requires the organisation to make the best effort to uphold the rights as written in the *Charter*. Respect for the rights is to be reinforced in all relevant policies and procedures. Endorsement sends a clear message that the interests of children and young people are of paramount concern to the people who work in the organisation.



As at 30 June 2006 seven agencies had endorsed the *Charter*:

- Anglicare SA
- CREATE Foundation
- Anglican Community Care
- Lutheran Community Care
- UnitingCare Wesley Port Pirie
- Centacare Catholic Family Services
- Office for Youth, Department of Further Education, Employment, Science and Technology

Increasingly the monitoring of quality of care by this Office and advocacy for systems improvements will be tied to respect for these rights.



### *About being in care*

In the early days of consultation by this Office many people spoke of the need for improved information directly to children and young people in care about their experience. The Office embarked on a project to produce useful information for children about being in care.

The project was directed by a group of young people in care and it was their depth of experience that the Office drew on in preparing the material. By the end of the year we had produced a book for children in care in South Australia, contact cards for children to record important names and phone numbers, and a social worker's checklist of the information children and young people want to know when moving. Other materials will be produced in the future.

### *Communications*

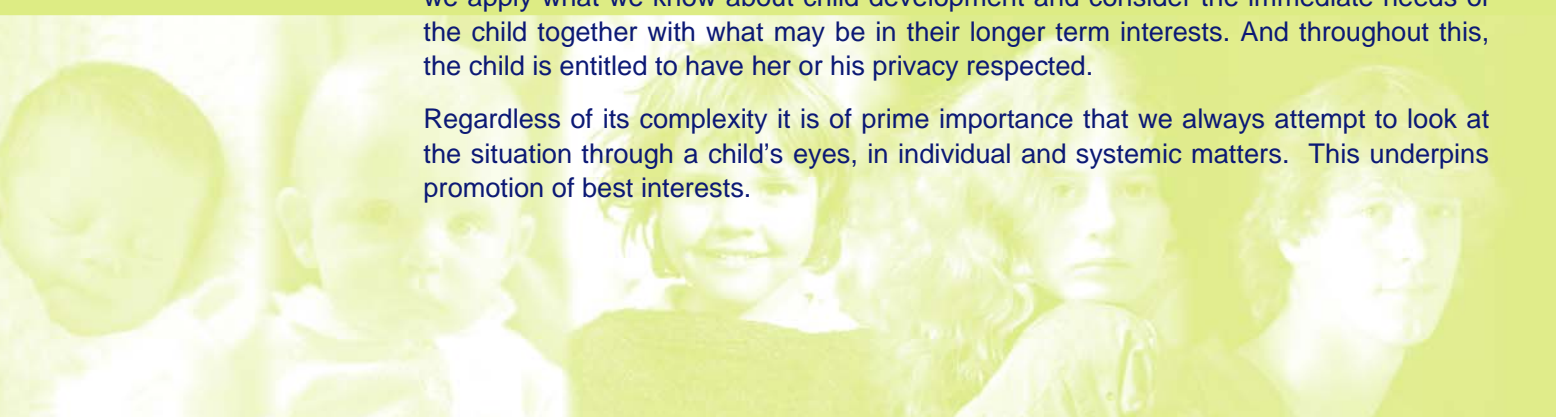
Our communication strategy includes the theme of the promotion of the best interests of children and young people in care. Our website, newsletter, information papers and presentations support this function. In 2005-06 we made improvements to the website and by the last quarter achieved over 120 'unique' visitors to the site each month, issued four newsletters to a growing subscriber list and released two information papers and two fact sheets. The Guardian and other Office staff made 53 presentations to a wide range of audiences.

### *Challenges*

The challenges in fulfilling this function are twofold at least. First, adults are usually more articulate and experienced at pursuing their interests so the child's voice, even through advocates, is often drowned out. Secondly, deciding what constitutes the child's best interests is often difficult and invariably contested.

This Office shares with others the weighty responsibility for important decisions on behalf of children in care. Everyone in child protection has to attempt to take into account the views of the child—after considering his or her capacity to form and express those views—the views of others who are significant to the child, the views of others more experienced than ourselves or with a different interaction with the child, the views of legal bodies such as the courts, and the views of the child's cultural community. Then we apply what we know about child development and consider the immediate needs of the child together with what may be in their longer term interests. And throughout this, the child is entitled to have her or his privacy respected.

Regardless of its complexity it is of prime importance that we always attempt to look at the situation through a child's eyes, in individual and systemic matters. This underpins promotion of best interests.







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

Advocacy is planned in all of the Office's activities and is closely interconnected with monitoring and investigation. The emphasis and intention in the legislation is on systemic advocacy and change. However, the Office does, in specific circumstances, advocate on behalf of individual children or young people.

#### *Individual matters*

In 2005-06 the Office received 152 requests for assistance for individual children. Of these, 80 were opened for further enquiry or investigation. Because a single matter sometimes affects more than one child or young person in care, we intervened on behalf of 88 children and young people.

These are the major characteristics of the 88 children and young people at the time of referral. For purposes of comparison, the percentage of children and young people under the custody and guardianship of the Minister as a whole are shown in brackets. Those not available are marked n-a.

<i>care arrangements</i>		<i>%</i>
	in foster care	46 (70)
	in relative care	17 (22)
	in residential care	16 (4)
	in motels, caravan parks or living independently	20 (n-a)
<i>ages</i>		
	15 and over	21 (21)
	10-14 years	36 (33)
	5-9 years	25 (25)
	0 to 4 years	17 (21)
<i>gender</i>		
	females	44 (49)
	males	55 (51)
<i>aboriginality</i>		
	Aboriginal	13 (22)
<i>types of order</i>		
	long term care and protection order	56 (n-a)
	12 month care and protection order	29 (n-a)
	youth justice order	5 (n-a)
	family court order or not under an order	10 (n-a)
<i>disability</i>		
	with some form of disability*	26 (9)

\*In nearly 70% of those presenting with a disability, intellectual disability was a factor.

*Julie, 17, has a mild intellectual disability and other major health problems. She was removed from her parents' care at the age of 12. Julie's mother also had an intellectual disability and a mental illness. Julie found it very difficult in family based care and had been in and out of Magill Youth Training Centre several times. Julie is now doing well in one of the Families SA Transitional Assessment houses. She wants to stay at school and has been on work experience. While the houses were meant for short term placements, this house has provided the most stable and important settling time for Julie.*

*Families SA brought the matter to the Office's attention when it appeared that Julie would not be able to access disability services. On a previous assessment, Julie's disability fell two points short of eligibility for service. Julie will require significant support for some time to live independently in the community. Disability Services SA provided case management and the Office of the Guardian and Families SA negotiated suitable Trust housing for Julie once she turns 18. There will be 24 hour care in the house for at least one year while Julie completes Year 11.*

*Disability Services SA have supported a proposal that ineligibility can be reviewed for a child under guardianship where the service is desirable.*

The sources of referrals for these 88 children were:

foster carers	28
Families SA	12
young people themselves	9
foster care agencies	7
parents/guardians	6
Child Protection Services	6
other health services or agencies	5
Minister for Families and Communities	4
schools	3
Care and Protection Unit – Youth Court	3
other advocates for child/young person	2
Minister for Education and Children's Services	2
State Ombudsman	1

Of these 88 children, the major presenting issues were, in descending order:

- reunification practice or decisions
- Families SA decision making
- a request to advocate for the child or young person with another agency (such as Disability Services SA and Housing SA)
- access and contact issues with the birth family
- allegations of abuse in care
- lack of accommodation options for young people with a disability
- education issues (such as funding for SSOs, suspensions and exclusions, lack of opportunities)
- inappropriate placement (including motel accommodation)

### *Sexual abuse in care*

Following a systemic investigation of sexual abuse in care a report was prepared for the Minister with 36 recommendations for action to prevent abuse. The report was forwarded through the Minister to the Commission of Inquiry (Children in State Care).

Families SA, Department for Families and Communities, prepared a written response to the recommendations and negotiation on implementation commenced in March 2006. The themes of the recommendations were:

- strong and stable relationships with trusted adults
- empowerment of children and young people
- more frequent contact with skilled and concerned adults
- quality and capacity of supervision and response to inappropriate behaviour
- continuous improvement to the quality of alternative care

Since the preparation of the report there has been significant progress on the support and requirements for child safe environments, empowerment of children through articulated rights and a renewed emphasis on capacity of supervision through new positions in Families SA and compulsory training.

I am encouraged by the preparedness to make required change, the cooperation in negotiation and the shared views about improvements. The major areas still under discussion are:

- access by children and young people to complaints mechanisms
- development of protective behaviours training for young people in residential and secure care
- implementation of practice standards and alternative care standards
- development of new models of care and heightened support for carers
- smaller numbers of young people in residential settings and improvements to the quality of interaction between staff and residents

While the details in the submission remain confidential, the Office produced an information paper and fact sheet about preventing sexual abuse in care for public use.

### *Children in motels*

As a result of three individual matters that the Office assisted with we prepared a report on children accommodated in motels and cabins. The bottom line agreed by all is that motel rooms are not appropriate accommodation for children and young people in need of out of home care. However, as long as they are required we must ensure that the quality of care is at an equivalent or higher level to other forms of alternative care. Our advocacy on this issue continues but the seven recommendations made for improvements to care were largely accepted by Families SA. These included service agreements with providers of care that specified the additional responsibilities of contracted carers to children, the need for more consistency in care and child related experience of carers and the enhanced communication required between casual carers and social workers. The report also recommended that agreements with not for profit organisations be explored a second time.

*Linda, 14, was living in a motel following several recent foster placement breakdowns. The principal of her school contacted the Office of the Guardian because the school was concerned about her welfare and did not know who to speak to.*

*Linda had been arriving at school late, without lunch or lunch money and in a dishevelled state. She was becoming alienated from her peers. Families SA acted promptly to ensure that the carers engaged while Linda was in the motel provided bus tickets, lunch money and uniform.*

*The situation alerted us to a lack of clarity about responsibilities between the casual carers engaged for temporary care and the social workers. As a result of this matter and two others in similar circumstances the Office prepared a report for discussion with Families SA and a number of changes followed.*

*Recently, Families SA have commenced a more thorough exploration of alternative emergency placements that could replace the use of motel rooms and casual carers.*

Other advocacy topics are reported on below in 'advice to the Minister' on page 17.





### *Challenges ahead*

The challenges ahead are substantial and no less than the challenges faced by all in seeking the best child protection and youth justice systems we can have. The pressures in the child protection system are well known. There are increasing numbers of notifications of abuse and neglect and increasing numbers of children coming into care. The available places of care do not match the need. In the last two years there has been significant attention paid to improving services to children in care and to workload issues in investigation and case management. This is welcome and provides opportunities for improved outcomes for children in care.

The improved outcomes will be hampered though, unless we pay more attention to supporting families in crisis and to the quantity and range of alternative care placements.

In youth justice the challenges are equally substantial. Indeed, the two systems of child protection and youth justice are interwoven at many points, and the required responses are shared. Young people in the youth justice system are invariably in need of a care and protection response. That is, while young people on remand or detention orders are suspected of or have committed offences, the outcome sought is to prevent them from committing further offences. We can do this only by addressing the causes of their offending and by treating and teaching them with dignity and respect. Of most pressing need is to reduce the levels of remand in custody and the replacement of the highly inadequate and run down youth training centre at Magill.

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

At this point in the short history of the Office of the Guardian this function is under-developed. The staffing level is too low to carry out monitoring of the quality of care except to the bare minimum. However, this in itself is an improvement on having no discrete independent monitoring of the circumstances of children in care.

The specific monitoring activities undertaken by the Office are:

- investigating individual matters brought to our attention
- auditing of annual reviews of children under long term guardianship
- visits to residential care units
- receipt of reports on adverse events and children in motels
- receipt of limited aggregate data on children in care
- annual consultation with workers

These are all important sources of information and we are able to form strong impressions about systemic strengths and weaknesses. We will continue to advocate on the basis of what we learn from these activities. However, it is inadequate to fulfilling the function. Over a year, the Office only has direct or indirect involvement with an estimated 7% of children in care. In jurisdictions with comprehensive monitoring programs the aim is to have an independent view or assessment of every child in care.



We hope to move gradually towards a more complete monitoring program.

The strengths in the child protection system are many and include a highly committed paid and voluntary workforce, stronger emphasis on participation by children and young people, increasing agreement on shared responsibility for child protection and understanding of the heightened significance of family and kinship ties for Aboriginal and Torres Strait Islander children.

The pressures are still keenly felt by children, families, carers and workers alike. Relief or resolution requires, among other things, reducing demand on the system through non-investigative family assistance, provision of therapeutic assistance to harmed children, adequate educational support to children in care, alternative care choices for children to allow matching of need with type of care, professional workforce shortages and capacity to fulfil a responsive case management role.



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

In addition to regular meetings with the Minister the Guardian prepared six written reports in the year covering activities of the Office, case studies and matters for discussion or noting. The more significant matters follow.

*Inconsistent approach to reunification and access to reunification services*

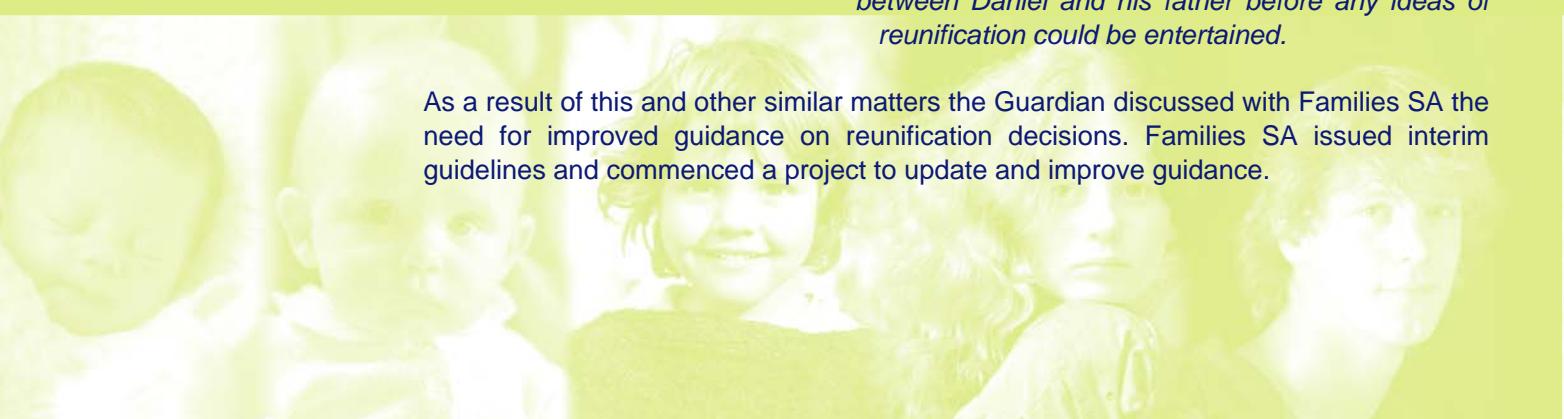
Decisions about a child's best interests, particularly about who is the best primary carer, will almost always be contested in child protection matters. The 2005 amendments to the *Children's Protection Act 1993* strengthens both the commitment to a stable family environment for children and to a sustaining and nurturing alternative living environment where their own immediate family cannot provide it. Between these two points are multiple decisions and arrangements. A significant number of individual matters raised with us in the past year have highlighted the lack of guidance and assistance for social workers in recommending whether, when or how reunification with the family should occur.

***Daniel, 12**, has been living with his current carers for nearly four years. It is his most stable placement. Recently with a change in case worker there was a change in the case management plan and it was decided to explore the possibility of reunification of Daniel with his father who lives interstate.*

*Reunification was discussed with Daniel, his carers and his father. Daniel had been having supervised access with his father on occasions but he was now in a situation where he felt he had to choose between the only stable home he had known and his father. This created trauma and anxiety for Daniel because of torn loyalties.*

*The Office of the Guardian became involved at the request of the foster carers and spoke to Families SA and Daniel's therapist. In discussion it was agreed that there was confusion about the reunification policy and that it was more important to establish a good connection between Daniel and his father before any ideas of reunification could be entertained.*

As a result of this and other similar matters the Guardian discussed with Families SA the need for improved guidance on reunification decisions. Families SA issued interim guidelines and commenced a project to update and improve guidance.



*Gabriel, 9, and Carter, 5, are siblings and live in the northern country region in separate foster homes. They are on their third 12 month care and protection orders.*

*The children have weekly weekend access visits with their father and his new partner. The distance travelled and the time involved has meant that the children are missing school every second Monday. The long held intention is to reunify the children with their father on the condition that agreed goals are met and a reunification program is successful.*

*The boys' father has met some of the goals. Further progress is waiting on a reunification service. The reunification service in Port Augusta has one half time worker and the waiting list is long.*

*The children have an access arrangement that presupposes reunification. However there is no service to confirm or reject this plan. The children are in an indeterminate state with little opportunity to properly settle with their carers and build connections with friends in their neighbourhoods.*

In some country regions long waiting lists for reunification services for families results in deferred decisions and children being left in limbo for unacceptable periods of time.

Issues with the use of and access to reunification services was reported and discussed with Families SA and the Minister for Families and Communities.

In 2006 Families SA commenced a project to address this issue and immediately issued interim guidelines, to be followed by further assistance and confirmed practice guidelines.

#### *Alternative care planning*

Alternative care services in South Australia struggle to adequately respond to the family support and child placement needs in the community. The South Australian experience mirrors the difficulties interstate and overseas. It is also common to other welfare programs where demand generally runs ahead of supply. Good forward planning becomes critical in these circumstances to counterbalance service development driven by reaction and crisis.

Written advice was provided on the need to involve all of the stakeholders in developing an agreed vision and plan for the provision of alternative care until 2010 against which funding decisions would be made.

While the proposal was not accepted in full, Families SA commenced a planning process in May 2006.

### *Preventing sexual abuse in care*

A detailed report on recently reported sexual abuse in care, a literature review on what the research tells us about risk factors and recommendations for further improvements was provided to the Minister in August 2005. In sum the recommendations were closely related to the following themes:

- support children and young people in care to form and maintain stable significant relationships with trusted adults
- empower children and young people in care through a focus on creating child safe environments, participation in decisions that affect their lives, knowledge of their rights and the provision of support to rectify violation of those rights
- ensure frequent contact of children and young people with skilled and concerned adults such as case workers or community visitors
- put greater emphasis on the quality and capacity of supervision provided by case workers and carers and organisational preparedness to act promptly on reports or qualms about inappropriate behaviour
- pursue continuing improvements in the quality of care provided by supporting foster carers, building staff and carer competencies, providing guidance about appropriate conduct in working with children, and through appropriate accommodation and staff to resident ratios in residential facilities
- support continuous improvement through agreement on good standards of care, assistance to reach and go beyond those standards, prompt attention to outcomes of incident reviews, and resources to monitor and advocate for the required change

Since the completion of the report there have been changes which impact on some of the priority areas such as new regulations for child safe environments, the preparation of draft standards for alternative care, greater investment in professional training and the completion of a charter of rights. See page 13 above for further details.

### *Sexual abuse on the Anangu Pitjantjatjara Yankunytjatjara (APY) Lands*

Following discussion with staff at the Families SA District Centre in Coober Pedy a short report was prepared on the absence of therapeutic assistance to a group of children who had been the victims of sexual abuse in 2003 and 2004. The report was prepared in consultation with CAMHS (Northern Region), Families SA (country region), and the Department for Families and Communities Aboriginal and Torres Strait Islander Services. Agreement was reached on an improved therapeutic service and assistance to educators in the two affected communities to respond to sexualised behaviours as a result of the abuse. This matter is a representation of the wider picture of child abuse in remote regions which became the focus of national attention in April 2006.

### *Eyre Peninsula – access to services*

A field visit to non-government and government agencies on the Eyre Peninsula in September 2005 resulted in written advice on the specific circumstances for children in care in the west of the state. Not surprisingly, access to timely services and travel times for family access visits were significant issues. The availability of appropriate placements varied from one regional centre to another, in part a reflection of the quality of working relationships between the Families SA district centre and the alternative care agencies. That is, where the child protection agency and the placement recruitment and support agencies work as a team the benefits include more numerous and more stable placements for children.



*Children's Protection (Miscellaneous)  
Amendment Bill 2005*

The Guardian responded in writing to the Bill when it was introduced to Parliament. Previous written advice had been provided about directions for amendment. The major changes to the legislation were welcome and consistent with changed practice and knowledge over the previous decade, particularly the emphasis on respecting the views of the child and the significance of security and stability in young children's lives.

*Children in motels*

Motel or cabin accommodation is used as a last resort for children in care when other care options are not available. Children and young people are cared for by contract carers during their stay in the motel or cabin.

From the reports received by this office in 2005-06 the number in motels or cabins has fluctuated over the past year, from a low of 8 to a recent high of 30. Their period of stay ranged from overnight to over seven months.

All parties in the child protection and alternative care systems are unhappy with the use of motels for temporary accommodation. Their highest priority in decisions and action is to make more suitable arrangements.

The Office of the Guardian has been involved with this matter since October 2004 in monitoring the quality of care and negotiating with Families SA on improvements.

In November 2004 and May 2005 specific recommendations for action were made to Families SA. This was followed by a written report in January 2006 reiterating the recommendations. In large part, the recommendations were accepted. In March 2006 a report on this negotiation was provided to the Minister. In sum and as reported above, the recommendations were to strengthen the contractual arrangements with the care provider agencies, to issue practice and care guidelines specific to children in these circumstances, and to minimise the length of stay.

In future we hope to see a significant fall in the numbers of children accommodated in motels or cabins.



### *Educational support for students under guardianship*

Data sharing between the Department of Education and Children's Services and Families SA demonstrates that students under guardianship are the most disadvantaged group of the school population and are significantly behind in literacy and numeracy skills.

To address this, Individual Education Plans for all students under guardianship have been introduced from 2006. Introduction of Individual Education Plans is too recent to report on results. However, experience overseas and interstate indicates that individual plans that are well supported do make a positive difference to educational outcomes.

The advice on this matter was that the plans be supported by resources flexible enough to meet what is identified for each student. While there is no specific allocation of resources to support the plans there are some sources of financial assistance under different programs. The challenge is to make these readily accessible and to assess adequacy as a total pool of funds available to students under guardianship.

There is uncertainty about the future of initiatives for disadvantaged students funded through the Social Inclusion School Retention Strategy. The strategy concludes in June 2007. Anecdotally, the initiatives targeted at students under guardianship and most disengaged from school have been successful in re-engaging students and building self-esteem. Demand for the program remains strong. Feedback on the strategy includes the need to extend the program to younger students when issues of engagement are first evident. I hope to see such initiatives and programs maintained well beyond 2007.

### *Magill Youth Training Centre*

In written advice to the Minister I have recommended that the Magill Youth Training Centre be replaced as a matter of great urgency. Replacement has been recommended by others over a long period of time. In early June 2006 I did an inspection of the physical infrastructure and prepared a report.

The existing centre is a cheerless institution which inhibits proper care and behaviour change. The facility falls well below national standards for both youth<sup>1</sup> and adult detention facilities, contravenes *UN Rules for the Protection of Juveniles Deprived of their Liberty*<sup>2</sup>, and is potentially in violation of Article 40 of the *UN Convention on the Rights of the Child*.<sup>3</sup>

Children as young as ten years are accommodated at Magill Youth Training Centre. An average of 25 children have been accommodated at Magill Youth Training Centre each day in 2005-06. In 2005 there were 941 admissions, a fall from 1,107 in 2004. This represents 488 individual children because of multiple admissions, including some children with more than five admissions in the year.

Modification of the facility will temporarily address some of the more glaring safety issues but at a recent and continuing cost of \$1.8 million per year is a costly postponement of the required replacement.

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1. Australasian Juvenile Justice Administrators [1999] *Standards for Juvenile Custodial Facilities*

2. General Assembly Resolution 45/113 of 14 December 1990

3. Article 40 of the *UN Convention on the Rights of the Child* states that: States Parties recognize the rights of every child alleged as, accused of, or recognized as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the child's reintegration and the child's assuming a constructive role in society.

**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 reported above, advice was provided on a number of matters. Formal inquiries and reports were provided on the prevention of sexual abuse in care (August 2005), children in motels (March 2006) and the physical infrastructure of Magill Youth Training Centre (June 2006).

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

There were no systemic matters referred to the Guardian by the Minister. The Office did investigate and report on four individual matters at the request of the Minister.



# Our organisation

## Legislation

The position of Guardian for Children and Young Persons was established in an amendment to the *Children's Protection Act 1993* passed on 1 December 2005 and proclaimed on 1 February 2006. Until the proclamation of the amendment, the Guardian operated under delegated powers and Cabinet direction on functions.

## Governance

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

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

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

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

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

## Location

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

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

## Access

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

The website is designed for children and young people in care and has a 'kids only' section. It complies with Web Content Accessibility Guidelines 1.0. ([www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/checkpoint-list](http://www.w3.org/TR/1999/WAI-WEBCONTENT-19990505/checkpoint-list)).

## Complaints

The grievances and complaints policy was revised and updated during 2005-06. It is available from the website and is provided when someone complains about the service.

There have been no complaints made to the Office about the service in 2005-06.



### **Energy management**

The Office of the Guardian has participated in the Department for Families and Communities energy efficiency and waste reduction program. In compliance with this program all waste paper is recycled, rubbish is sorted for recycling and power standby features are engaged.

### **Freedom of information**

In 2005-06, the *Children's Protection (Miscellaneous) Amendment Act 2005*, which allows for the appointment of the Guardian, was enacted. The legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no requests under FOI to this Office during 2005-06.

### **Strategic and organisational planning**

The annual work plan for 2006 was finalised in December 2005.

## Management of human resources

EMPLOYEE NUMBERS, GENDER AND STATUS							
Total number of employees							
Persons		5					
FTEs		3.4					
Gender		% Persons		% FTEs			
Male		20		23.5			
Female		80		76.5			
Number of persons during 2005/06							
Separated from agency		0					
Recruited to agency		3					
Number of persons at 30 June 2006							
On Leave Without Pay		1					
Number of employees by salary bracket							
Salary bracket		Male		Female		Total	
\$0 - \$40,399				1		1	
\$44,000 - \$54,999		1				1	
\$55,000 - \$67,999				1		1	
\$68,000 - \$88,999				1		1	
\$89,000 +				1		1	
Total		1		4		5	
Status of employees in current position							
Persons	Ongoing	Short term contract	Long term contract	Other (Casual)	Total		
Male		1			1		
Female	1	2	1		4		
Total	1	3	1		5		



**Workforce diversity**

Number of employees by age bracket by gender					
Age bracket	Male	Female	Total	% of Total	Workforce benchmark
15-19					7.9
20-24					10.7
25-29					9.8
30-34		1	1	20	10.5
35-39					11.4
40-44		1	1	20	12.4
45-49		1	1	20	12.4
50-54		1	1	20	10.9
55-59	1		1	20	8.3
60-64					4.4
65 +					1.3
Total	1	4	5	100.0	100.0

Aboriginal and/or Torres Strait Islander employees				
Male	Female	Total	% of Total	Workforce benchmark
		nil	0	2

Cultural and linguistic diversity					
	Male	Female	Total	% of agency	SA community
Number of employees born overseas	1	1	2	40	20.3
Number of employees who speak languages other than English at home				0	15.5

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

### Leave management

Average days leave taken per full time equivalent employee	
Leave type	2005-06
Sick leave	1.17
Family carer's leave	0
Special leave without pay	0

### Voluntary flexible working arrangements

Employees using voluntary flexible working arrangements by gender			
	Male	Female	Total
Purchased leave			
Flexitime	1	3	4
Compressed weeks			
Part time job share			
Working from home			

### Performance development

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

### Consultants

During 2005-06, there was one external consultant engaged with a total expenditure of \$9000.

### Occupational health, safety and injury management

In 2005-06, there were no incidents resulting in workplace injury.

## Financial

### *Revenue*

The source of revenue for the Office is an allocation made for the child protection reform program and administered through the Department for Families and Communities. The revenue for 2005-06 was \$438,600.

### *Expenditure*

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

Financial summary of expenditure			
Item	Actual	Budget	Variation
Salaries and wages	\$244,620.97	\$255,435.00	\$10,814.03
Goods and services	\$176,818.66	\$183,165.00	\$6,346.34
<b>Total</b>	<b>\$421,439.63</b>	<b>\$438,600.00</b>	<b>\$17,160.37</b>

## The staff team

During the 2005-06 financial year, six paid staff members and two unpaid youth advisers worked in the office.

### *Senior Project Officer*

Angela Andary

The Senior Project Officer manages some of the projects within the Office and all of the individual matters that are referred to the office, attends annual reviews of children and young people under guardianship and facilitates some of the consultations with children and young people.

Angela has had considerable experience in the health and welfare sector beginning in the Department for Community Welfare (now Families SA) some 20 years ago. More recently Angela worked at the Office of the Public Advocate advocating for the rights of people with a mental incapacity.



### *Project Officer - Communications*

Malcolm Downes (from 24/1/06)

The Project Officer – Communications researches and writes materials for publications, edits and designs materials for electronic and paper communications, collects and maintains statistical information on the target group and provides ad hoc support and services to office staff on communications and information matters.

Malcolm has had over 20 years advocacy and management experience in the community sector, notably in the disability and employment fields. Prior to joining the Office in January 2006, he spent seven years working on sector development and public policy with SACOSS.



### *Project Officer – Services Bank*

Stephanie Lewis (from 30/1/06)

A temporary part time (0.4fte) Project Officer position was created to undertake developmental work in relation to the establishment of a services bank for children under the care of the Minister.

Stephanie has worked in the community sector in community information and in the public sector in community legal education and project work for over ten years. Her substantive position is as Senior Project Officer, Family Home Visiting implementation team, Children, Youth and Women's Health Service.





*Guardian*

Pam Simmons

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

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



*Office Administrator*

The Office Administrator ensures the effective operations of the office by providing direct administrative support to both the Guardian and the team and management of human resources, staff records, finances and budget expenditure.

Jan Buczko (to 9/9/05)

Jan has held public sector positions in Aboriginal health and mental health. Prior to this Jan was involved for a number of years in the entertainment industry in all facets of event and venue management.



Yvette Roberts (from 24/1/06)

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



*Youth Advisors*

The Youth Advisors work with staff to provide advice, suggestions and guidance on matters affecting children and young people under the guardianship or care of the Minister. The role ensures that the voice and experience of young people who have been in the care system is incorporated in any projects or activities undertaken by the office.

Mellita Kimber

Mellita assists the office on a part time basis. The rest of her week is spent working as the Executive Officer to the Minister's Youth Council at the Office for Youth.



David Wilkins

David assists the office on a part time basis. He is a second year law and international studies undergraduate student at the University of Adelaide.



### **Membership of external committees**

- Inter-Ministerial Committee on Child Development  
Pam Simmons, Guardian
- Asia Pacific Association of Children's Commissioners  
Pam Simmons, Guardian
- Across Government Guardianship Steering Committee  
Pam Simmons, Guardian
- Guardianship and Alternative Care Unit Placement Panel  
Angela Andary, Senior Project Officer
- Alternative Care Standards Implementation Group  
Angela Andary, Senior Project Officer
- Care and Protection Committee, Learning and Development Unit, DFC  
Angela Andary, Senior Project Officer
- Certainty in Care for Children Committee  
Angela Andary, Senior Project Officer
- Human Resources Network  
Jan Buczko/Yvette Roberts, Office Administrator

### **Learning and development**

The following training has been provided to staff:

- Mandatory reporting training
- Access 2003 Introduction
- Access 2003 Advanced

Staff also attended the following conferences/seminars/workshops:

- 10th Australasian Conference on Child Abuse and Neglect
- National Out of Home Care Research Forum
- Ethics and Accountability
- Risk assessment and management
- Accountability in statutory offices
- Working well with clients





Thanks to Arlen, Lillian, Olivia and Tom and their parents for permission to use these photos.

