

# Annual Report

2016-2017



**Government of South Australia**

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Office of the Guardian  
for Children and Young People

October 2017

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**Office of the Guardian for Children and Young People**

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The Hon. Susan Close, MP  
Minister for Education and Child Development  
GPO Box 1563  
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 2017, as required under Section 52D(2) of the *Children's Protection Act 1993*.

This report provides a summary of the activities and achievements for the 2016-17 financial year.

In presenting this Report, I would like to take the opportunity to acknowledge the work of Amanda Shaw, who was Acting Guardian until 9 July 2017, and oversaw the operations and functioning of the office during the reporting period.

Yours sincerely

Penny Wright  
Guardian

A handwritten signature in black ink that reads "Penny Wright". The signature is written in a cursive style with a large initial 'P'.

30 October 2017

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## What the Office does

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 who are under court orders granting guardianship or custody to the Minister for Education and Child Development.

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

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

The Office of the Guardian is an independent government agency and the Guardian advises the Minister for Education and Child Development.

In December 2016 the Guardian was appointed as the Training Centre Visitor, pursuant to section 11 of the Youth Justice Administration Act 2016.

*Functions*

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

- Promote the best interests of children under the guardianship, or in the custody, of the Minister, and in particular those in alternative care.
- Act as an advocate for the interests of children under the guardianship, or in the custody, of the Minister and, in particular, for any such child who has suffered, or is alleged to have suffered, sexual abuse.
- Monitor the circumstances of children under the guardianship, or in the custody, of the Minister.
- 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.
- 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.
- Investigate and report to the Minister on matters referred to the Guardian by the Minister.

I report against these functions in this annual report.

## What we believe and value

### *At the Office of the Guardian...*

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.

### *The values of the Office*

- 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.

## Who we work for

The Office promotes and protects the rights of South Australian children and young people who are under the guardianship, or in the custody of, the Minister for Education and Child Development. This includes those who are in relative or kinship care, foster care, residential care or secure custody.

As at 30 June 2017 in South Australia there were 3,296 children and young people under the guardianship of the Minister through care and protection court orders. They had the following characteristics:

Children and young people under the guardianship of the Minister through care and protection court orders at 30 June 2017 (n = 3296)	
	%
Male	51.6
Female	48.3 <sup>1</sup>
0-1 years	7.1
2-4 years	15.1
5-9 years	30.2
10-14 years	31.8
15-17 years	15.6
Aboriginal and/or Torres Strait Islander	35.2
Long-term care and protection orders	85.4
12 month care and protection orders	14.5

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<sup>1</sup> One young person was not gender identified in this binary scheme, so the total population used for gender identity was 3295 children and young people.



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

Care arrangements for children and young people in out of home care <sup>2</sup> at 30 June 2016 (ROGS 2017 <sup>3</sup> )(n = 3243)	
	%
Foster care	38.8
Relative or kinship care	45.2
Residential care (incl. emergency care)	14.7
Independent living	1

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<sup>2</sup>The numbers of children and young people under the guardianship of the Minister and those classed as in out of home care for the purpose of the Productivity Commission's annual *Report on Government Services* refer to similar but not identical populations. 2017 data will be available in June 2018.

<sup>3</sup> This data responds to reporting criteria for the Productivity Commission *Report on Government Services* as included for 2015/16 in the 2017 ROGS.

## The year in review

In 2016-17, the attention of the Office and the child protection community in South Australia was strongly focussed on the report of the Child Protection Systems Royal Commission (*The Life They Deserve*) and the Government's subsequent response and commencement of reform via *A Fresh Start*. At the same time the Office continued to experience a substantial increase in requests for advocacy about children's individual circumstances.

Following the release of Commissioner Nyland's report, the Office worked to identify issues relevant to the Guardian's legal mandate and to inform key stakeholders and the public. Additionally, the Office engaged strongly in the proposed legislative, policy and program reforms arising from the report.

The number of requests to intervene on behalf of children and young people in care increased by 62 per cent from the previous year. Requests about children and young people in non-family based care arrangements (residential care, emergency care and the Adelaide Youth Training Centre) accounted for 53 per cent of the requests, which is greatly disproportionate to the number of children and young people in these care arrangements. Consistently with recent years, the top four presenting issues were security and stability of placement, safety, contact with significant others and participation in decision making. Thirty per cent of the requests for intervention were made by children and young people themselves.

As the number of children and young people in care increases, the system struggles to secure family based placements and this has necessitated a government strategy to grow residential care. South Australia's residential care population increased by 240 per cent over the last 10 years and the growth of residential care is in direct response to the Government's commitment to cease the use of commercial (emergency) care arrangements as soon as possible.

The Office has continued to witness, and receive reports of, a range of problems in the quality of emergency care. Emergency care arrangements should cease but finding a suitable alternative placement involves much more than just finding a bed. In this year the Office saw a number of placement changes that were hastily planned and executed, poorly matched and did not involve the input of the children affected.

A good placement has to consider not just what is best for the child or young person but what is in the interests of residents who already live in that placement. Careful transition for the child being moved will take time but this will be an effective investment if it increases the likelihood that the placement will be successful and endure. Similarly, careful consideration of the needs of existing residents will take time and sometimes lead to a contraindication to some placements. This may slow down the capacity of the Department to move children from emergency care, which is undesirable, but may ultimately result in more successful and enduring placements both for the child being moved and the existing residents.

The Office acknowledges there is an ethical dilemma in trying to make more placements available within the same constrained resources without losing sight of the individual child's rights, wellbeing and voice. South Australia already has the highest average number of placement changes per child in Australia and the Office has well documented the negative effects of forced placements changes in reports and in the affected children's and young people's own words.

The government is rolling out a long-overdue investment in prevention and early intervention to reduce the number of children and young people coming into state care. This, and the extra resources dedicated to out-of-home care, will, we hope, provide more stable, safer and more suitable care options in the future.

*In 2016-17 the Office of the Guardian*

- Summarised themes of recommendations from the Nyland Royal Commission
- Constructively contributed to the considerations and response to the Nyland Royal Commission
- Gave evidence to the Legislative Council Select Committee on Statutory Child Protection and Care
- Responded to 235 requests for intervention, involving 321 children and young people in care. Of these requests, 30 per cent were from children and young people themselves
- Audited 94 annual reviews of the circumstances of those under long-term guardianship of the Minister (4 per cent of this group of children and young people)
- Visited children and young people living in residential care or youth justice detention in 30 announced visits
- Substantially grew the reach of the Office's subscriber list and social media network.
- Reported on the circumstances for Aboriginal children and young people in child protection and youth justice
- Reported on trends in school enrolment, attendance and literacy and numeracy skills from 2008-2016 for students under guardianship compared to their age peers.

## Functions and outcomes

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

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

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

## Promote

Statutory function

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

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### The Office's goals

**Action is prompt on issues that impact on the safety and wellbeing of children and young people.**

**Effective early intervention services for high need families ensure only those who need state care are taken into care.**

**Responsibility for the safety and wellbeing of children and young people is shared.**

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

The Office of the Guardian has the responsibility for promoting and monitoring the implementation of the terms of the Charter. Following the acceptance of revisions to the *Charter of Rights for Children and Young People in Care* (the Charter) by Parliament in early 2016, the Office sought endorsements from all relevant government and non-government agencies and service providers.

At the end of the financial year, 82 agencies had endorsed the revised Charter, and an additional three agencies had commenced the endorsement process. There were 420 Charter Champions engaged to promote children's rights in their agencies.

A *Charter of Rights for Children and Young People Detained in Youth Justice Facilities* was included in the *Youth Justice Administration Act 2016* that became operational from 1 December 2016. However, the Office did not have the capacity to undertake additional responsibilities within existing resources.

The Guardian was invited to speak about the rights and interests of children in care at various events, including, but not limited to –

- National Aboriginal and Torres Strait Islander Children’s Day
- National Child Protection Week
- Setting the Record Straight for the Rights of the Child Initiative
- Australian Education Union SA Early Childhood Conference
- Department for Child Protection Forum.

*Engaging children and young people in the Office’s work through whatever avenue we can*

The Office’s youth participation policy and strategy detail the commitment and actions to strengthening the voice of children and young people and modelling their participation in decisions. In 2016 children were consulted on the significance of being actively involved in decision making. Agencies experienced increasing difficulty in partnering with the Office to facilitate consultations due to reported demands for services.

The monitoring visits to residential and youth justice detention units, as well as individual advocacy matters, also engage children and young people in talking about their views on the care provided. These views are also reflected in submissions and presentations made by the Office.

*Sharing the knowledge the Office has through a range of media*

The website is the major source of public information about the Office’s activities, findings and views. In 2016-17 it grew to 29 pages and a searchable archive of over 400 posts on matters related to child protection and children’s rights.

The Office continued its communications strategy that entailed making information and opinion available via shorter and more frequent posts and expanding the subscriber base to the Guardian’s Information Service. Website page views have increased from 39,332 in 2015 calendar year to 69,237 in the 2016 calendar year. Subscriptions to the Guardian’s Information Service have also increased by over 20 per cent in the last quarter of 2016-17.

The Office interacted with the child protection sector with some new website offerings in 2016-17 which included a series summarising the major findings and recommendations from

the Nyland Royal Commission and a survey on the current state of, and changes in, coordination and collaboration between significant parties within child protection.

The Office maintains two Facebook pages and a Twitter stream, each with a modest following. By these means the Office makes available information on child protection and children's rights including, and in addition to, that which is on the website, as well as providing the opportunity for community comment.

In 2016-17, the Office published four quarterly newsletters.

In 2016-17 the Office promoted the best interests of children and young people in care via the following submissions and responses:

- Exposure draft of the Youth Justice Administration Regulations 2016
- Children and Young People (Oversight and Advocacy Bodies) Bill 2016
- Children and Young People (Safety) Bill 2016
- Attorney-General's Department's Nyland Response Unit scoping of recommendations with specific relevance and implications for the Office
- Children and Young People (Safety) Bill 2017
- Legislative Council Select Committee on Statutory Child Protection and Care re Safety Bill
- Draft Operational Orders for the Adelaide Youth Training Centre
- Proposed organisational restructure for Child and Adolescent Mental Health Service (CAMHS)
- Joint Standing Committee on the NDIS provision of services to people with psychosocial disabilities related to a mental health condition
- KPMG consultation regarding foster and kinship carer advocacy services
- Health and Community Services Complaints Commission regarding systemic concerns about mental health services



## Advocate

Statutory function

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

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### The Office's goals

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

**Allegations of sexual abuse of children in care are investigated promptly.**

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*Through outreach activity the Office ensures that children and young people who need individual advocacy receive it*

Through our 'Being in Care' products the Office reinforces messages about children's rights and provides information about where to go for assistance. The product range was developed with advice from young people in care and now includes booklets, posters, contact cards, comic books, flash cards, back-packs, wristbands, tattoos, key-rings, a soft toy, stress balls, drink bottles, bucket hats and scribble pads with crayons. These products are provided free to children in care and are available to agencies that have endorsed the *Charter of Rights*. Oog, the creature created for children in care to represent the right to be safe, appeared again in the 2016 Credit Union Christmas Pageant.

The Office's advocacy for individual children is consciously linked to advocacy on systemic issues. Trends or repetition of problems are identified in advocacy and pursued. In 2016-17 the Office received 292 requests for intervention on behalf of children and young people. Of these, 235 fell within the Office's mandate, that is, they were requests about children and young people under guardianship, or in the custody, of the Minister. This is an increase of 62 per cent from the previous year.

A single matter sometimes affects more than one child or young person in care. The Office assisted or advocated on behalf of 321 children and young people (an increase of 66 per cent from the previous year). The Office's intervention ranges from providing information about policies or rights through to a full review of the circumstances of a child with advocacy

for change. The Office reviewed 72 cases, with an additional 18 cases carried over from 2015-16. This is a 67 per cent increase on the previous year.

In 2016-17 matters were of greater complexity than in previous years and, on average, took longer to investigate and attempt to resolve. The 235 requests that were within the Office's mandate were initiated by:

	No.	%
Child or young person	71	30
Adult in child's life (carer, parent, other relative)	74	32
Department for Child Protection	16	7
Alternative care agency	10	4
Other	64	27

The presenting issues<sup>4</sup> were categorised as:

	No.
Stable and secure placement	61
Safety	47
Contact with significant others	41
Participation in decision making	36
Appropriate care	24
Access to health and disability services	20
Education	17
Understanding circumstances	16
Nurturing environment	12
Relationship with case worker	11
Other	35

<sup>4</sup> There is often more than one presenting issue in a request and one issue may affect more than one child. Therefore the total is greater than the number of requests.

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

Once advice has been provided to the Minister on specific issues [see *Advise*] the Office pursues most matters through advocacy. In 2016-17 the Office continued to advocate for improvements in the following issues:

- Halting the use of residential facilities which accommodate more than four children and young people.
- Improvements in educational outcomes for children under guardianship.
- Improvements in conditions for children and young people residing in youth training centres and residential care.
- Reducing the reliance on temporary rented properties and agency staff to care for children.
- Improved out of home care planning.

Additionally, the Office provided advice on legislative reform following the conclusion of the Child Protection Systems Royal Commission and youth justice, and government agencies' service delivery frameworks.

The Guardian is a member of the Australian Children's Commissioners and Guardians network. In 2016-17 the major topics for discussion at meetings were the overrepresentation of Aboriginal and Torres Strait Islander children and young people in both child protection and youth justice systems, engagement and participation of children and young people, therapeutic care and youth justice detention facilities practices and oversight.

*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*

The Office receives notifications from the Care Concern units of two Departments<sup>5</sup> in relation to allegations of sexual abuse of children and young people in care. The role of the Office is to monitor the progress of the investigations and to ensure that the child has an advocate. This is done in cooperation with the Care Concerns units, the South Australian Police and the Office of the Director of Public Prosecutions.

In 2016-17, 26 notifications referred to the Office were subject to investigation by SA Police and/or the Department. In addition the Office monitored 22 investigations that were ongoing from previous years.

The new notifications related to alleged sexual abuse in the following care arrangements:

Relative care	11
Foster care	6
Residential care	5
Commercial care	4

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<sup>5</sup> The Departments are: Department for Education and Child Development and Department for Communities and Social Inclusion.

*A Case Study in Individual Advocacy (1)*

*'Sally', 13, and 'Lilly', 14, were removed from their long-term foster carers and placed in commercial care. The Office was contacted by a foster care support worker who expressed concern for the wellbeing of the children since their removal from foster care. The support worker reported that both children had disabilities, were experiencing high levels of distress and their overall behaviour and wellbeing was deteriorating.*

*The Office initiated an enquiry into the children's circumstances, seeking and obtaining information from the Department for Child Protection (the Department). It was evident that the children had expressed distress about their removal from their carers, their wish to return 'home' and felt unsupported and unheard.*

*The children contacted the Office separately and an Advocate visited them in their commercial care placement. The children clearly expressed their wish to complain about the decision to remove them from their carers and asked for help to return to their foster care placement. During multiple visits to the siblings at their commercial care placement, the Advocate observed that the commercial carers were unable to meet the children's needs and manage their challenging behaviours. The Advocate reported these observations to the Department.*

*The Department had requested the former foster carers to have nightly contact to help settle one of the children who has Asperger's. A number of external parties, including a private psychologist, were already involved and supported the return of the children to their previous carers, who were identified by the siblings as 'Mum and Dad'.*

*The Office supported the children to make a formal complaint. In collaboration with another statutory agency, an independent review of the Department's decision was secured and informed an assessment of the suitability for the children to return 'home'.*

*The children returned to the care of their foster carers three weeks before Christmas and they have consistently reported to the Advocate that they are extremely happy with the decision.*

## Monitor

Statutory function

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

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### The Office's goals

**Know what is happening for children and young people in care.**

**Identify and promote what is working well.**

**Identify weaknesses in the child protection system.**

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### *Implementation of monitoring framework*

In 2007 the Office introduced a framework for its monitoring activities so that it could report against standards endorsed by children. There are 12 quality statements based on the rights set out in the Charter of Rights for Children and Young People in Care.

### *Monitoring activities*

The number of children and young people in care grew by 18 per cent.

The Office undertook the following activities to monitor the circumstances of children and young people in care:

- Receipt and analysis of data available from the Department for Education and Child Development
- Audits of annual reviews (4 per cent of children on long term orders)
- Enquiries lodged at the Office (7.8 per cent of children on care and protection orders)
- Visits to residential care houses and youth training centre units (30 visits)
- Six monthly review of safety records in the Adelaide Youth Training Centre.

### *Reports on findings of monitoring*

The Office released a report on its audits of annual reviews for children who are under long-term care and protection orders.

After each visit to a residential care house, the Office forwarded a report to the responsible agency.

The Office provided two reports pertaining to the formal review of records at the Adelaide Youth Training Centre to the Department for Communities and Social Inclusion, Youth Justice Directorate.

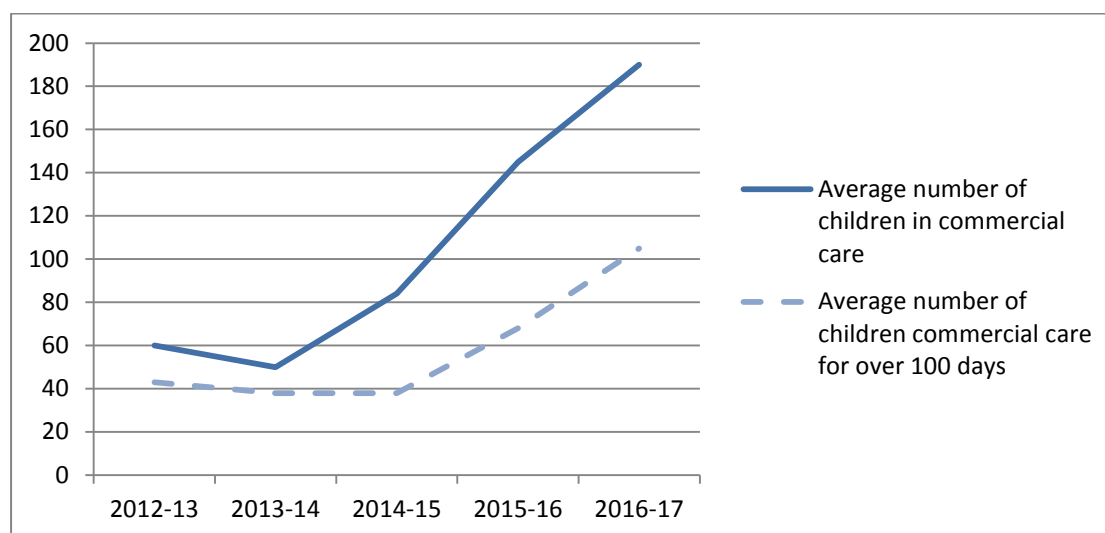
*Aggregate data*

Aggregate data is primarily sourced from, and with the cooperation of, the Departments for Child Protection (DCP) and Communities and Social Inclusion (DCSI). The most current and all-purpose data is available on the Guardian's website.

- The number of children and young people on short (12 month) and long term (to age 18) care and protection court orders at 30 June 2017 was 3296, an increase of 282 individuals from the same time twelve months earlier.
- The proportion of children in out of home care who lived in residential care (this includes emergency/commercial care) increased steadily from 2.3 per cent in 2005, to 12.7 per cent in 2014 and to 15.79 per cent in 2017 (550 of 3484 individuals).
- The proportion of children under the guardianship of the Minister who identified specifically as Aboriginal and/or Torres Strait Islander, compared to those who specifically identified they were not (ie 1131 compared to 2080 individuals, n = 3211), has increased steadily from 22.8 per cent in 2006 to 33 per cent in 2016 and to 35.2 per cent in 2017.
- The Adelaide Youth Training Centre (AYTC) accommodated 452 individual children and young people at some time in 2015-16 compared with 426 in 2014-15. 213 of those accommodated in 2015/16 identified as Aboriginal and/or Torres Strait Islander, of whom 94 were female, and 80 under the guardianship of the Minister.
- The average daily AYTC occupancy rate in 2015/16 was 53.73 young people.
- The total number of separate AYTC admissions in 2015/16 was 865. Of these, 186 were of females, 414 of children and young people who identified as Aboriginal and/or Torres Strait Islander, and 180 were of children and young people under the guardianship of the Minister.
- Of the 452 children and young people in the AYTC in 2015-16, 47 per cent were Aboriginal.

*Children in interim emergency care (motel-type accommodation)*

The Office began monitoring the numbers of children and young people in emergency care in February 2005 when they numbered ten. There has been substantial growth in the use of commercial care in the last five years.



In 2016-17, the highest number at any one time was 217, which occurred in October 2016.

The following calculations are based on weekly reports received:

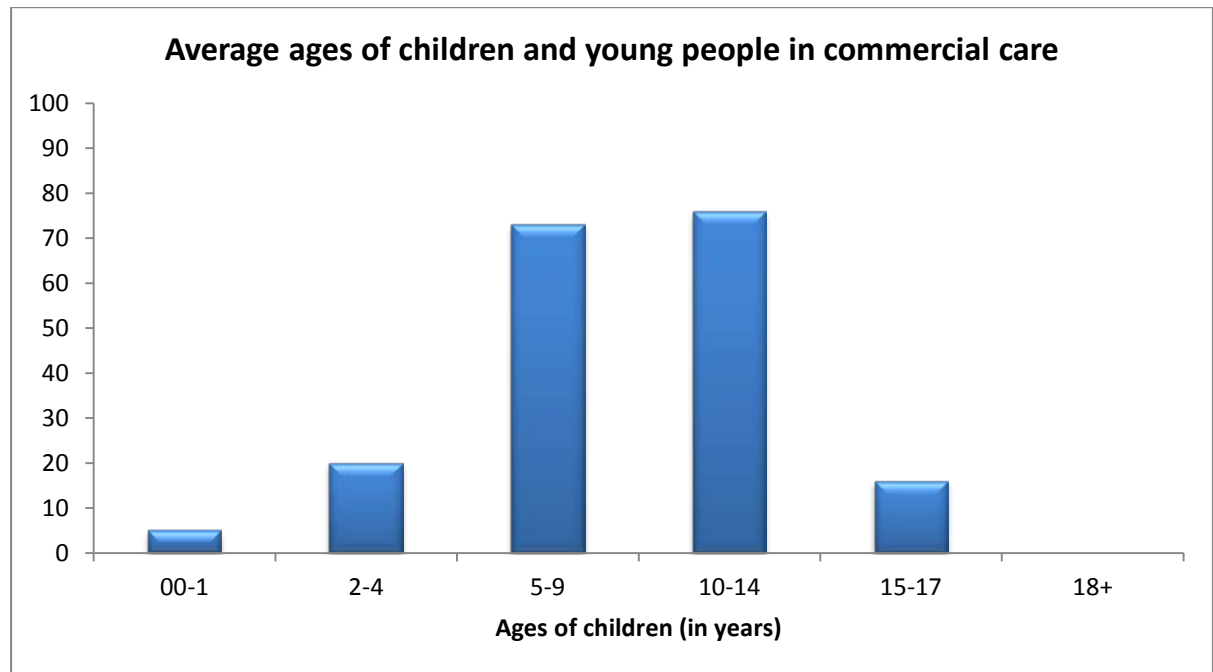
- average number of children per night – 190
- average length of stay - 178
- average number of children in placement for over 100 days - 105
- average age of children – 9 years

At 26 June 2017, 106 children had stays of over 100 days.<sup>6</sup>

<sup>6</sup> Comparisons of 'long-stays' with previous years is now not possible. In August 2014 the Department stopped providing detailed reports, so the Office could not do independent analysis. The Department reports on the number of children with stays over 100 days. In previous years, the Office's tracking has been on numbers with stays over 60 days.



Particularly concerning is the very young age of more than half of those accommodated in 2016-17.



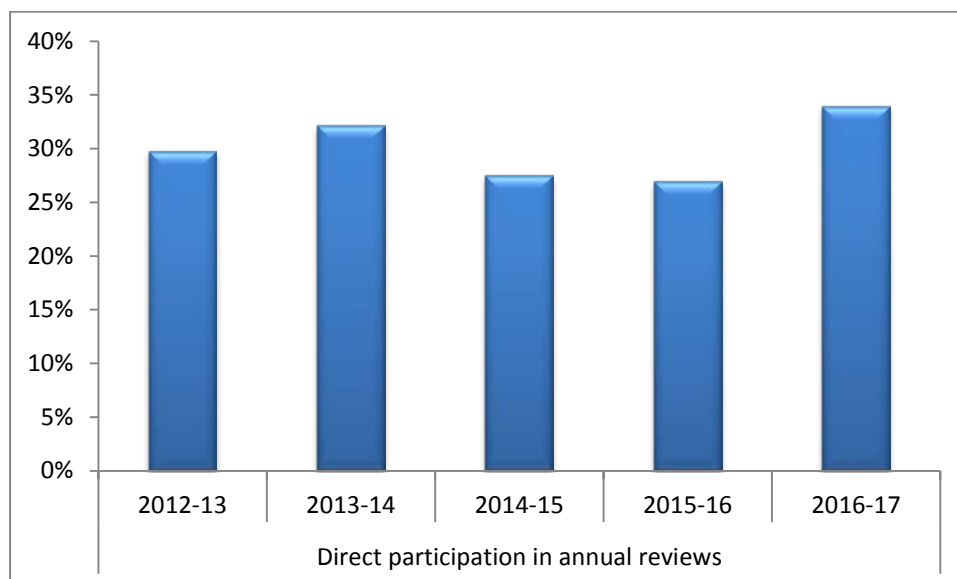
There is consensus that the 'interim' care arrangements are inappropriate for children who are already in vulnerable circumstances and there is limited continuity and consistency in carer staff. While the quality of day-to-day care varies considerably, the instability and uncertainty for children is universal. The Office has continued to receive reports of, or witnessed, problems such as staff who are insufficiently trained and qualified in trauma-responsive care, inconsistency in boundaries and approaches to managing behaviour, , frequent absconding and/or missed schooling by children and young people, lack of personal belongings and isolation.

#### *Audits of annual reviews*

The Senior Advocate audited 94 annual reviews at seven Department for Child Protection offices. Annual reviews are conducted for children and young people placed under long-term guardianship orders. Some offices scheduled regular reviews and were visited on more than one occasion. The Office audited four per cent of reviews that were to be conducted, down from seven per cent in 2015-16. The drop in numbers of audits completed was due to the cancellation of scheduled reviews and demands on the Office not commensurate with resources.

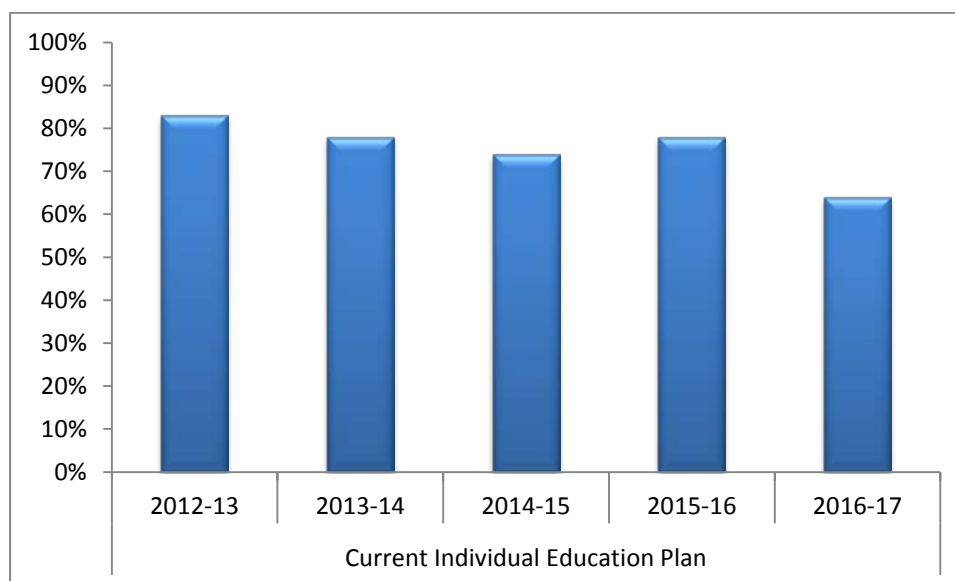
The major findings for 2016-17 were:

- Of the 94 children and young people whose cases were reviewed, 81 (86 per cent) were in stable, long-term placements.
- Of the children and young people whose cases were reviewed, 74 (79 per cent) had at least one significant adult in their lives.
- Sibling(s) were identified as the most significant connections for eighteen children and young people (19 per cent) and another two children (two per cent) did not have any significant connections beyond the Department for Child Protection.
- Twenty-seven of the annual reviews audited were for Aboriginal children and young people. Seventeen Aboriginal children and young people (63 per cent) were placed with their extended family or with Aboriginal carers.
- Over the last five years there has been little improvement in the participation of children and young people in their annual reviews

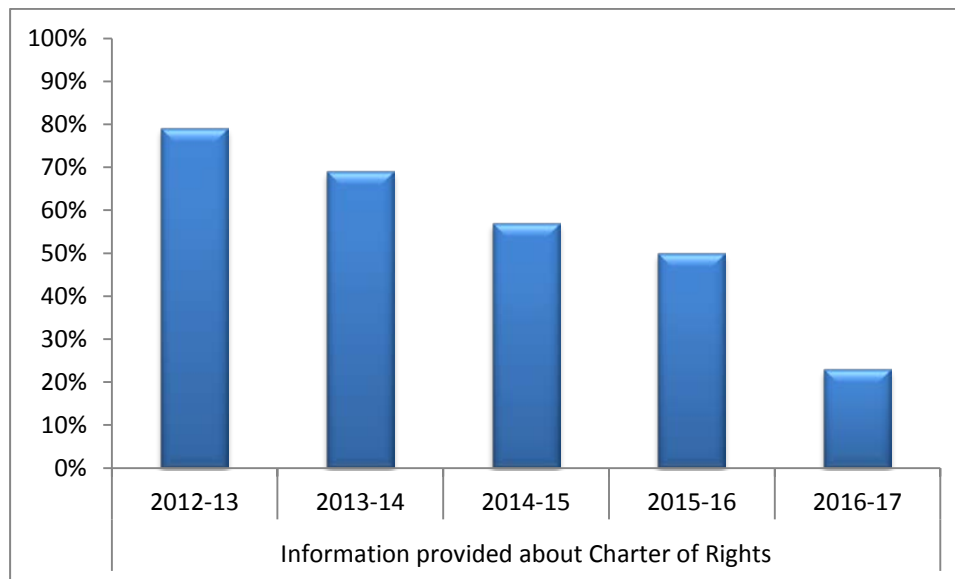


- Thirty-two children and young people (34 per cent) participated in their annual review, either by attending (16 per cent), teleconference (3 per cent) or by completing a survey (15 per cent). It is commendable that country offices were responsible for *all* of the reviews where children and young people attended, and 87 per cent of the participation via surveys.

- Forty-five children and young people (58 per cent of those capable of presenting their views to the panel) did not have a direct voice in their annual reviews.
- Of the 94 children and young people whose cases were reviewed, 86 (91 per cent) were confidently considered safe and reported to feel safe.
- Of the 63 children and young people who were of school age and attending pre-school, primary school or secondary school, it was reported that 40 (64 per cent) had current Individual Education Plans (IEPs), or Negotiated Education Plans at the time of the annual reviews.
- The Office has monitored the implementation of the IEP since 2007-08. The proportion of children and young people under guardianship with an IEP current at the time of their annual review was the lowest observed in that period.



- Twenty-nine (31 per cent) of children and young people whose cases were reviewed did not have regular contact with the same worker. Of this group, 15 (16 per cent of the total number of annual reviews audited) who were allocated a social worker received less than the recommended monthly face-to-face contact. Fourteen children (15 per cent) did not have an allocated social (or case) worker.
- Of the 74 children and young people who had the capacity to understand, 17 (23 per cent) had been provided with the *Charter of Rights for Children and Young People in Care*. There has been a continuing and concerning decline over the last five years.



- Fifty-two children and young people (55 per cent) whose cases were reviewed had a Life Story Book. This included 16 Aboriginal children and young people who have been supported to develop a culturally appropriate Life Story Book. It is heartening to note that this was an improvement of 12 per cent on the number in 2015-16 (43 per cent).

#### *Residential care and youth training centres*

Monitoring of the circumstances of children in residential care is based, in part, on formal visits to some residential settings. The Office is unable to visit all facilities for lack of resources. Decisions about which sites to visit were made from analysis of information about the sites.

The visit includes a review of records that relate to the physical and emotional safety of residents, interviews with managers and a visit to residents to hear their views. In addition, residential care supervisors complete an annual self-evaluation survey at the beginning of each financial year that captures the perspective of the service provider and staff. After the visit, the Office provides a written report to senior management of the organisation.

At the beginning of 2016-17, the Office was advised that 71 residential care properties provided by Families SA (now the Department for Child Protection) and non-government organisations accommodated children and young people under the guardianship or custody of the Minister. By the end of 2016-17, the number of residential care properties expanded to 131 as the oversight of commercial care properties moved to the Department's

Residential Care Directorate and the funding of additional non-government residential care properties. In 2016-17 Advocates completed 19 formal visits to residential facilities.

In November 2011, on the advice of the Guardian, the Minister for Education and Child Development began to progressively close the six larger and older residential care facilities. Two were scheduled for replacement by the end of 2013 and the four remaining were to have been closed by mid-2016. However, two of the older facilities remain in operation and there are three newer, large facilities which accommodate 12 children in each. These large residential units are not suitable for children and should be closed.

There are two campuses for the Adelaide Youth Training Centre which operate under a single management team. In 2016-17 Advocates from the Office conducted 11 visits to units within the youth training centre to talk with groups of residents. Written feedback followed each visit. The records<sup>7</sup> are reviewed twice a year and a more comprehensive written report is provided to the Director, Youth Justice.

(In December 2016 the Guardian was appointed as the Training Centre Visitor, pursuant to section 11 of the *Youth Justice Administration Act 2016*. This role, and the staff appointed to assist, will enable increased and more thorough monitoring of the quality of care, treatment and control of residents of the AYTC as well as formal inspections and increased visiting and advocacy for the residents.)

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<sup>7</sup> The records reviewed are Incident Reports, Resident Complaints, Youth Advisory Committee Meeting Minutes and the Staff Training Register.

*A Case Study in Advocacy (2)*

*'Robert', aged 17 years, is an Aboriginal young person living in residential care with a younger sibling. He contacted the Office to request help to resolve concerns about his living situation and access to extra-curricular activities at school.*

*Robert advised that he was soon to turn 18 years, and was feeling stressed as he had no housing option organised and he was commencing Year 12. He reported being presented with options for supported accommodation that he felt would be unsuitable as he believed that these arrangements would affect his ability to have visits from his younger sibling.*

*Robert also expressed concern over delays in an application for his passport, which he required for an upcoming overseas school trip. And he was worried that, although there was a verbal agreement about funding the overseas trip, it may not be funded.*

*Through the Office's liaison with the department it became apparent that there was no written transition plan for Robert as he approached the age of 18 and was facing leaving care, and no regular care team planning meetings. Robert was being required to complete forms and attend appointments for housing options but the options identified were either not suitable or not available: they were either more than two hours from his school, or his applications were declined as he was not considered, at that time, to be homeless, or the houses were unavailable until well after his 18th birthday.*

*The Office of the Guardian was able to assist Robert by advocating for the development of a transition from care plan, identification of appropriate post-care accommodation and funding of the school trip.*

*The Department for Child Protection confirmed that Robert would not be homeless upon turning 18 although it could not specify what accommodation would be provided. Additionally, the department advised it would provide case management until Robert completed year 12, and that it would fund his school trip. Robert's passport application was progressed immediately and he received his passport. The Department scheduled care team meetings, and these were to include Robert.*

## Advise

Statutory function

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

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### The Office's goals

**Advice results in action on critical issues for groups of children and young people.**

**The Minister and others have confidence in the advice provided.**

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### *Advice and inquiry*

The Guardian provided written advice on the following topics in 2016-17:

- Results of the audit of annual reviews
- Draft *Children and Young People (Oversight and Advocacy Bodies) Bill*
- Draft *Children and Young People (Safety) Bill*
- Expenditure on child protection in South Australia
- Aboriginal and Torres Strait Islander children and young people in child protection and youth justice
- Educational outcomes for children and young people in state care in government schools

## Inquire

Statutory function

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

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### Our goal

**Inquiries result in systemic reform that is long-standing.**

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Due to an increase in the number and complexity of advocacy matters, an increase in the number of residential care facilities to be monitored and the requirement to respond to, and support, the processes of the Child Protection Services Royal Commission and the government's subsequent response, 'A Fresh Start,' the Office did not have the capacity to conduct any **major** inquiries in 2016-17.

## Investigate

Statutory function

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

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### The Office's goal

**Investigations result in practical recommendations that are acted on.**

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One individual case was referred to the Guardian by the Minister.



## About the Office of the Guardian

### *Legislation*

The role of Guardian for Children and Young Persons was established in an amendment to the *Children's Protection Act 1993* (the Act) proclaimed on 1 February 2006. Further amendments made in late 2009 strengthened the independence and powers of the role.

### *Governance*

Under the Act, the Guardian is appointed by the Governor. 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 Education and Child Development 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 organisations and people that is necessary to fulfilling the Guardian's functions.

The Guardian is required to maintain a Youth Advisory Committee which assists the Guardian in the performance of their functions by ensuring that they are aware of the experiences of, and receives advice from, children who are, or have been, under the guardianship or in the custody of the Minister.

Due to the nature of their circumstances and experiences, a formal Committee structure has proved to be a challenging and not particularly appropriate means of engaging and consulting with children and young people in care. GCYP has provided advice to this effect and negotiated with the Minister to ensure that voice of children and young people remains pivotal to the work of the Office through the frequent use of other consultative bodies. These bodies are skilled at eliciting the voice and input of children in care and are used to inform projects and develop advice and recommendations but they have no formal governance role.

#### *Location*

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

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

#### *Access*

The office space has been designed for wheelchair access and, within workplace imperatives, for children.

The Guardian's website is built on a self-hosted Wordpress platform which is compliant with the World Wide Web Consortium's web content accessibility guidelines.

#### *Complaints*

The grievances and complaints policy is available from the website and is provided when someone complains about the service.

There were no formal complaints made to the Office about the service in 2016-17.

#### *Energy management*

The Office recycles all waste paper and power standby features are engaged on appliances.

### *Freedom of information*

Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*. There have been no FOI requests for other information during 2016-17.

### *Strategic and organisational planning*

The Office released its Strategic Plan for 2011-15 in June 2011. The decision was taken to defer strategic planning until continuation of the Office was confirmed following Child Protection Systems Royal Commission and appointment of the Guardian for a five-year term. The Office has an annual work plan that is reviewed quarterly.

### *Membership of external committees*

- Child Safety and Wellbeing Advisory Panel
- Australian Children's Commissioners and Guardians
- Interagency Children and Young People's Safety Steering Committee
- Exceptional Needs Executive Committee
- Rapid Response Working Group
- University of SA Consequences of child maltreatment Reference Group
- Children and Law Committee, The Law Society (periodic guest)

### *Learning and development (including conferences / seminars and workshops)*

- Responding to Abuse and Neglect (DECD)
- Focus on Family Safety, Risk Management in Practice (University SA)
- Reducing child abuse and neglect: why child-focused reform offers the greatest promise in child protection (University SA)
- Cultural Awareness Session (Port Adelaide Football Club)
- Research symposium: Children's safety in institutions (Australian Catholic University; Royal Commission into Institutional Responses to Child Sexual Abuse)
- Youth justice in the UK (David Chesterton, Secure Foundation)
- Violent extremism and youth (The APS Forensic College)
- New and Emerging Managers Series (Institute of Public Administration Australia)
- Youth Housing Conference (St John's Youth Services)
- Pathways to Protection and Permanency: Getting it right for children, young people and families Conference (Association of Children's Welfare Agencies)

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*Workplace health and safety*

In 2016-17 there were no incidents resulting in workplace injury.

*Employee numbers, FTE and gender profile<sup>8</sup>*

<b>Total number of employees (including Guardian) at 30 June 2017</b>			
Persons	8		
FTEs	7.7		
<b>Gender</b>	<b>% Persons</b>	<b>% FTEs</b>	
Male	37	35	
Female	63	65	

*Workforce diversity: age and gender profile*

<b>Age bracket</b>	<b>Number of employees by age bracket by gender at 30 June 2016</b>				<b>2014 Workforce Benchmark*</b>
	<b>Male</b>	<b>Female</b>	<b>Total</b>	<b>% of Total</b>	
15-19					5.5%
20-24					9.7%
25-29					11.2%
30-34	1	2		37.5	10.7%
35-39		2		25.0	9.6%
40-44		1		12.5	11.4%
45-49					11.1%
50-54					11.4%
55-59					9.1%
60-64	1			12.5	6.7%
65 +	1			12.5	3.6%
<b>Total</b>	<b>3</b>	<b>5</b>		<b>100</b>	<b>100.0</b>

*Workforce diversity: disability*

<b>Total number of employees with disabilities</b>			
<b>Male</b>	<b>Female</b>	<b>Total</b>	<b>% of agency</b>
0	0	0	0

<sup>8</sup> Further human resources information is available from the Commissioner for Public Sector Employment at [www.publicsector.sa.gov.au](http://www.publicsector.sa.gov.au)

*Leave management*

Average days leave per full time equivalent employee	
Leave type	2016-17
sick leave	5.1
family carer's leave	0.7
special leave with pay	0.5

*Performance development*

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

*Financial*

*Consultants*

There were no consultants engaged by the office during 2016-17.

*Expenditure*

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

<b>Financial summary of expenditure 2016-17</b>			
<b>Item</b>	<b>Actual</b>	<b>Budget</b>	<b>Variation</b>
Salaries and wages	728	793	65
Goods and services	122	129	7
<b>Total</b>	850	922	72
Revenue	-22		22
<b>Net</b>	828	922	94

*\* Revenue provided by DCSI for short term Project Officer, Training Centre Visitor Program*

*The staff team*

*Office Manager*

Nicole Pilkington

The Office Manager provides a range of services within the Office including records management, human resources and finance support. She manages the implementation and maintenance of key facilities and services and coordinates the implementation of the Charter of Rights.

*Communications Officer*

Malcolm Downes

The Communications Officer researches and produces print, online and video materials for electronic and paper distribution, oversees the website and provides ad hoc support and services to Office staff on communications and information matters.

*Senior Policy Officer*

Alan Fairley

The Senior Policy Officer conducts research and consultations, prepares policy papers, briefings and reports for the Guardian.

*Senior Advocate*

Jodie Evans (to January 2017)

Kate Cameron (from March 2017)

The Senior Advocate leads the advocacy team, manages the Office's monitoring activities and audits annual reviews for children and young people under guardianship.

*Advocates*

Belinda Lorek (to March 2017)

Jodie Evans (to June 2017)

Michelle Hopkins (to April 2017)

Sarah-Jayne Meakin (from March 2017)

Zoe Dalton (from May 2017)

Conrad Morris (from May 2017)

Advocates investigate and advocate on individual matters and monitor quality of care in residential and youth justice facilities. They also undertake project work specific to their skills and areas of interest to the Guardian.