

# Guardian for Children and Young People Annual Report

2020-2021



**Guardian**  
for Children and  
Young People

October 2021

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

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The Hon. Rachel Sanderson, MP  
Minister for Child Protection  
GPO Box 1072  
ADELAIDE SA 5001

Dear Minister

I am pleased to present to you the annual report of the Guardian for Children and Young People for the year ended 30 June 2021, as required under section 28(2) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016*.

This report provides a summary of the activities and achievements for the 2020-2021 financial year.

Yours sincerely

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

**Penny Wright**  
**Guardian**

25 October 2021

### *A caution*

This report contains some case examples and sensitive information that may be distressing to some readers.

If that is the case for you, we encourage you to seek support from family, friends and community or contact a service like Kids Help Line on 1800 551 800 or Lifeline on 13 11 14.

### *Acknowledgements*

Many people made contributions to writing this Annual Report, with major contributions made by the GCYP Advocacy Team and OGCYP Communications, Policy and Administration staff.

We acknowledge the contribution made to the GCYP Advocacy team by Master of Social Work student, Katharine Shepherd, who assisted with a residential care audit visit and report completion and developed a position paper on 'The Best Interests of the Child'.

We also thank law intern, Kellie Elmes, for her assistance in compiling a summary of residential care audit visit data and emerging themes.

It 'takes a village to raise a child' and it also 'takes a village' to complete an Annual Report, with thanks all round to the OGCYP team that made this report happen.



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## Notes

### *Scope*

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

The Guardian is also the Training Centre Visitor and was (during the reporting year) the Child and Young Person's Visitor.

The term, 'Office of the Guardian' or OGCYP, will be used in this report to describe the work of the Guardian's Advocacy Team as well as general work of the Policy, Communications and Administration staff who support the combined functions and work of the office.

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

### *Case Studies*

Where case examples have been included to illustrate the work of the Office of the Guardian, identifying characteristics have been changed to protect the children's privacy.

### *Data*

Please note that some data may not add up due to decimal rounding.

### *Glossary*

ACIST	Aboriginal Cultural Identity Support Tool
Act	Children and Young People (Oversight and Advocacy Bodies) Act 2016
CYP	Children and/or Young People (Child and/or Young Person)
CYPV	Child and Young Person's Visitor
DCP	Department for Child Protection
GCYP	Guardian for Children and Young People
KTYJC	Kurlana Tapa Youth Justice Centre (formerly the Adelaide Youth Training Centre)
OGCYP	Office of the Guardian for Children and Young People
SADI	South Australian Dual Involved (project)
Safety Act	Children and Young People (Safety) Act 2017
TCV	Training Centre Visitor

# 1. From the Guardian

It is again my privilege to detail the activities and outcomes associated with my role as Guardian for Children and Young People, which is focused on promoting and defending the rights and best interests of all young South Australians living in state care.

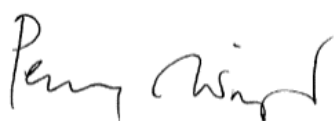
This year saw the number of children and young people in care grow from 4,370 to 4,647, an increase of 6.3 per cent. Every day my staff and I are mindful that each of these individuals is unique – with their own personalities, strengths and vulnerabilities and their own unique requirements to enable them to grow and have the life they deserve. The guiding principle behind our work is to ensure that, in the midst of a huge and complex system with its own compelling demands, every individual child or young person is equally valued and can have a voice.

Due to these increasing numbers, and the effect of other external forces (market and social), we have seen a child protection system under mounting strain. Shortages in available placements have created very difficult conditions in which to provide shelter, a safe home and love for each child and young person to the degree that they need.

Despite the best efforts of DCP and NGO agencies, the number of family-based placements with kinship or foster carers has not kept up with demand, placing more pressure on other options like residential care. In turn, declining vacancies in the rental market and competition for skilled carers have made it difficult to procure properties and adequately staff them. These factors have led to such a shortage of residential care placements that, despite the strongest advocacy by my office, some children have been required to continue living in placements that are dangerous and harmful. These and other significant issues and themes which affect the rights and best interests of children and young people, are discussed in more detail in [Part 5](#) of this report.

In the face of many challenges, DCP has also introduced some welcome and promising initiatives over the last year. These include specialised support for some of the children with the most challenging and complex needs, including disability, and a successful program to make residential care more 'homelike' and therapeutic. Some are more established, such as 'MyPlace', and others are still being developed or rolled out.

In reflecting on the many things my office has accomplished this year, I wish to pay tribute to my staff, who have worked hard and creatively to manage an expanding range of roles and functions, as well as responding to the increasing demands that come from growing numbers of children and young people coming into care, and the increasing complexity of their enquiries and needs. As well as my 'Advocacy Team' of five, who provide direct services to the children and young people seeking our help, my Policy, Business and Communications staff have also played a crucial part in supporting the combined roles of Guardian for Children and Young People and Training Centre Visitor in the Office of the Guardian.



Penny Wright

### *In 2020-2021 the Office of the Guardian:*

- Responded to 489 requests for assistance, of which 431 were 'in-mandate' and involved 607 children and young people in total (or 476 different individuals). Of these requests 162 were from children and young people themselves
- In responding to those enquiries, managed a 10% increase in 'in-mandate' inquiries compared to the previous year (and an 83% increase since the last increase to the staffing of the Advocacy Team in 2016-2017)
- Audited 231 annual reviews of the circumstances of children under the long-term guardianship of the Chief Executive of DCP (5% of this group of children)
- Completed a full review of the *Charter of Rights for Children and Young People in Care*, involving consultation with over 100 children and young people or young adult care leavers who had an experience of being in care. The revised Charter of Rights was adopted by the Minister for Child Protection in February 2021.
- Commenced developing a series of new resources (booklets, posters and an animated video) to promote the revised Charter of Rights and a new process for accrediting Charter Champions.
- Commenced working with Aboriginal children and young people in care to create a culturally relevant GCYP safety symbol, 'Nunga OOG'
- Launched new logos and branding for GCYP, TCV and the Office of the Guardian and a new more child-friendly website
- Reported on trends in school enrolment and attendance in government schools from 2010-2020 for students under guardianship compared to their age peers
- Reported on costs and trends for children in out-of-home care, based on an analysis of the Report on Government Services, including a separate report on the circumstances of Aboriginal children in care and in detention
- Undertook an organisational review of the resourcing needs of the Office of the Guardian (three roles at the time) to develop a Work Plan and a Business Case for necessary resourcing
- Developed and commenced the South Australian Dual Involved (SADI) Project to to inquire into, and learn more about, the experiences, circumstances and needs of dual involved young people (who are both in care and have been in detention in KTYJC)



## 2. An introduction to the Office of the Guardian

### 2.1 Three roles in one office

During the reporting year, the Office of the Guardian was comprised of the activities and staff associated with three roles: the Guardian for Children and Young People, the Training Centre Visitor and the Child and Young Person's Visitor.

All three roles were held by Penny Wright.

This Annual Report specifically details the activities and achievements of the Guardian for Children and Young People.

#### *The Guardian's role*

The role of Guardian for Children and Young People (GCYP) was established by the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (the Act), to promote the rights all children and young people who are under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection and to advocate for their best interests.

The GCYP is an independent position that reports to parliament through the Minister for Child Protection.

Penny Wright's appointment is for the period 10 July 2017 to 9 July 2022. She is supported to do her work by a specialised team, made up of a Principal Advocate, an Assessment and Referral Officer and three Advocates (the Advocacy Team), together with Administration, Communications and Policy staff.

In 2020-2021 she currently holds two further roles, which overlap with, and complement, the Guardian's functions: Training Centre Visitor (TCV) and Child and Young Person's Visitor (CYPV).

#### *The Training Centre Visitor and the Child and Young Person's Visitor*

Both the Training Centre Visitor (TCV) and the Child and Young Person's Visitor (CYPV) are also independent positions, which report to the parliament.

The TCV position was established by the *Youth Justice Administration Act 2016*, to promote the rights of children and young people sentenced or remanded to detention in youth training centres in South Australia and to advocate for their best interests. Penny Wright holds the position for the period 11 July 2017 to 9 July 2022. Details about the work of the TCV can be found in the Training Centre Visitor's Annual Report published separately and available at [gcyp.sa.gov.au](http://gcyp.sa.gov.au).

The Child and Young Person's Visitor (CYPV) position was established by the *Children and Young People (Safety) Act 2017*, to promote the rights of children and young people who are under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection and who are living in residential care, and to advocate for their best interests. Penny Wright was appointed for the period 26 February 2018 to 9 July 2022 but, as the role was not resourced, Ms Wright resigned from her position on 23 August 2021. Details of the functions and

background to the role can be found in the Child and Young Person's Visitor's Annual Report published separately and available at [gcyp.sa.gov.au](http://gcyp.sa.gov.au)

## 2.2 Rights, Vision, Values

### *Rights*

All children have fundamental rights and children and young people in care, and in youth detention, have particular rights, including: 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 need and the right to understand and be heard about decisions that affect them.

The particular rights for children in care are set out in the [Charter of Rights for Children and Young People in Care](#) (the Charter), prepared and maintained by the Guardian, as required by Part 4 of the *Children and Young People (Safety) Act 2017*.

Young people in youth detention have rights set out in the [Charter of Rights for Youths Detained in Training Centres](#).

One of the most important responsibilities of our office is to uphold and support these rights. They are consistent with the UN Convention on the Rights of the Child (UNCRC), which Australia has ratified. Section 5 of the *Children and Young People (Oversight and Advocacy Bodies) Act 2017* provides that every State Authority in South Australia must seek to respect and uphold the rights of children in the UNCRC when carrying out its functions and powers.

### *Our Vision*

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

### *Our Values*

- We are caring, brave and tenacious in our advocacy for children and young people.
- We are mindful of the responsibility, independence and reach of our office.
- We seek others' perspectives and take decisive action to do the right thing. We are optimistic that through this commitment change will happen.
- We are committed to ensuring the voice of children and young people informs our work and are active in pursuing their best interests. We encourage others to do the same.
- We are respectful of the challenges facing children and young people and our colleagues in pursuing their best interests.
- We act ethically, with understanding and take responsibility to create confidential, safe spaces that facilitate honest and robust interactions.
- We are playful and creative in our work and encourage innovation.

### 3. Introducing the children and young people who were 'in care' in 2020-2021

We promote and protect the rights and best interests of South Australian children and young people who are under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection. This includes those who are in kinship (relative) care, foster care, residential care or secure custody.

This report utilises two datasets we are kindly provided by DCP – one which categorises children and young people on Care & Protection Guardianship to 12 months and to 18 Years Orders at 30 June 2021 (n: 4,457), and one which categorises children and young people in out-of-home care as at 30 June 2021 (n: 4,647). This allows us to track and report on trends in the care population.

As of 30 June 2021 in South Australia there were 4,457 children and young people on Care and Protection Orders for Guardianship to 12 months and to 18 Years. They had the following characteristics:

**Figure 1: Children and young people on Care & Protection Guardianship to 12 month and 18 years orders at 30 June 2021 (n = 4,457)**

Male	52.1%
Female	47.7%
Indeterminate <sup>1</sup>	0.1%
Aboriginal and/or Torres Strait Islander <sup>2</sup>	37.7%
Guardianship to 12 months	12.3%
Guardianship to 18 years	87.6%

<sup>1</sup> The word 'indeterminate' is used by DCP, so is repeated here.

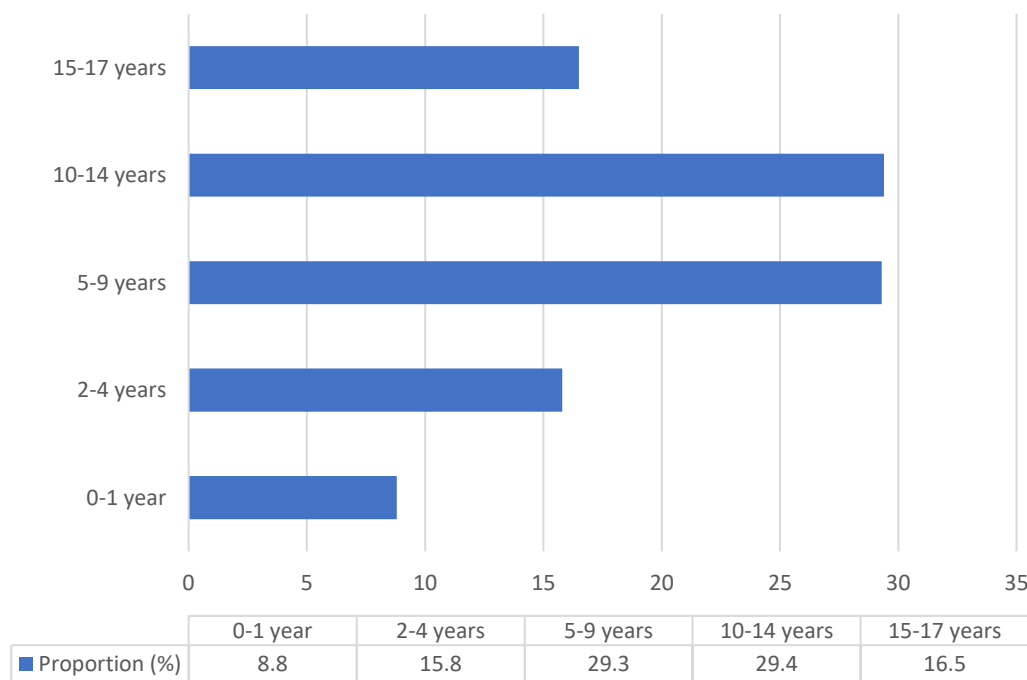
<sup>2</sup> There were 14 children and young people in care whose Aboriginal status was recorded as 'declined to answer' or 'not stated/inadequately defined'. They are therefore not included in the 1,684 Aboriginal and/or Torres Strait Islander children and young people on Care & Protection Guardianship to 12 month and 18 years orders at 30 June 2021, and are classified as neither Aboriginal nor Torres Strait Islander.

Between June 2020 and June 2021, there was a 6.3% increase in the number of children and young people in out-of-home care (an increase from 4,370 individuals in 2020, to 4,647 in 2021). This is less of an increase than in previous years, while noting that, as the numbers of children and young people in care increase, proportions will be less pronounced.

The number of Aboriginal and/or Torres Strait Islander children and young people in out-of-home care grew at a rate of 7.7%. This is not in line with the targets and outcomes set out under the National Agreement on Closing the Gap.<sup>3</sup>

No data was provided, for public release, about children and young people in care with disabilities. DCP has previously advised that there are various impediments to publishing the data about disability, due to the data sets available and difficulties in retrieving data about disability type and placement. It remains our view that publication of appropriate data about disability is in the public interest, both to inform the parliament (and thus the community) and to assist with monitoring the progress of DCP's care strategy, *Every Effort for Every Child*.

**Figure 2: Age of children and young people on Care & Protection Guardianship to 12 month and 18 years orders at 30 June 2021 (n = 4,457)**



<sup>3</sup> For more detail, please refer to page 9 of the Guardian for Children and Young People and Training Centre Visitor's report *Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2021*. Available here <https://gcyp.sa.gov.au/wordpress/wp-content/uploads/2021/05/ROGS-Report-Aboriginal-CYP-in-Care-and-YJ-Detention-2021.pdf>

Figure 3: Proportion of children and young people in out-of-home care as at 30 June 2021 by placement type (n: 4,647)

Foster Care	36.6%
Kinship Care	34.6%
Residential Care	12.9%
Temporary Care	8.5%
Specific Child Only Care	5.2%
Independent Living	1.0%
Family Day Care	0.8%

On 30 June 2021, there were 654 children and young people living in non-family-based care, comprising 604 in residential care, and 50 in independent living. Of those,

- 223 were Aboriginal (34%); and
- 110 were under the age of ten years (16.8%).

## 4. What we did in 2020-2021 – the work of the Guardian for Children and Young People

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

The Guardian's functions are set out section 26(1) of the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* as follows:

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

### 4.1 Promote

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

#### *The Charter of Rights for Children and Young People in Care*

GCYP is responsible for preparing, promoting and monitoring the *Charter of Rights for Children and Young People in Care* (the Charter). The Charter includes the right of children and young people to feel good about themselves, the right to live in a place where they are safe and well cared for, the right to get the help they want or need and the right to understand and have a say in decisions that affect them.

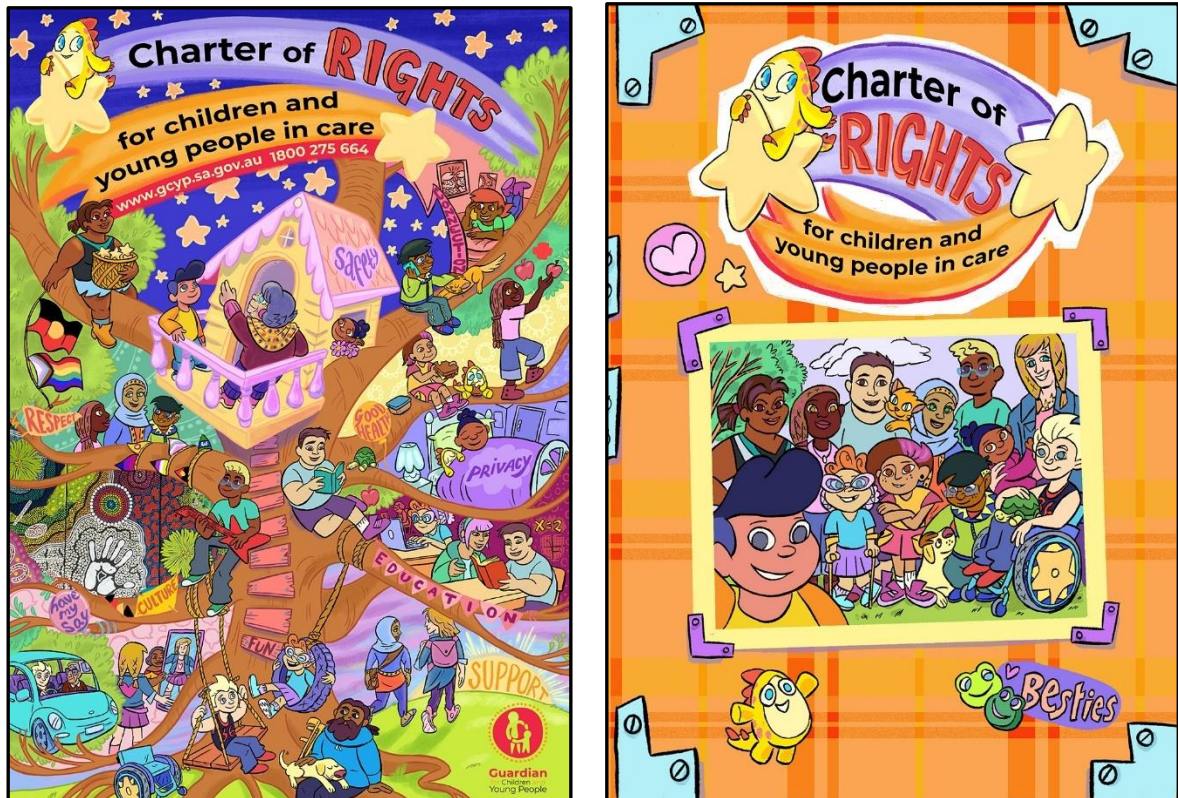
In the 2020-2021 financial year, we continued our review of the Charter, a five yearly process required by s.13(2)(a) of the *Children and Young People (Safety) Act 2017*. The working group,



which included two young people with a care experience, consulted with over 100 children and young people to create a revised set of rights reflecting the current needs of children in care, and factoring in their diverse backgrounds.

The [revised Charter](#) was adopted by the Minister for Child Protection in February 2021.

Since then, we have been working with an illustrator and a group of children and young people to create child-friendly versions of the Charter in both booklet and poster versions. These are expected to be launched later in 2021. Here is a sneak peek of the illustrations.



### *Promoting the best interests of Aboriginal children - the 'Nunga OOG' Project*

Our current 'OOG' character<sup>4</sup> was developed quite some years ago and is a much-loved symbol of safety for children in care. But given the over-representation of Aboriginal children and young people in the child protection system, we became aware that OOG needs a friend/cousin. And so we commenced the Nunga OOG Project last year, with the aim of creating a character, with, and for, Aboriginal children and young people in care.

The Nunga OOG Working Group is made up of a young person currently in care, Aboriginal Elders, OCGYP staff and Aboriginal staff from other child-focused organisations.

Due to Covid-19 restrictions last year, we sent boxes of art materials to residential care properties to give young people the chance to contribute to the design of Nunga OOG. Once

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<sup>4</sup> OOG is an acronym for 'Office of the Guardian'

restrictions were eased, we facilitated nine workshops, primarily in the metropolitan Adelaide area (including Elizabeth, Christies Beach and Mount Barker), as well as regional workshops in Murray Bridge and Port Pirie, with a total of 23 children and young people participating in these sessions.

We were able to enlist the assistance of local Aboriginal artists to facilitate the workshops, providing the children and young people the opportunity to learn some new art skills, whilst contributing to the design of Nunga OOG.

Here are some photos of the developing artwork.



As we progress towards the final design of Nunga OOG, we are planning further regional workshops in areas such as the Riverland, Port Lincoln, Coober Pedy and Ceduna.

We expect to wrap up the workshops in late 2021, with final design and launch of Nunga OOG set for 2022.

### *Promoting the participation of young people - in staff recruitment*

The GCYP is required to establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development and review processes (s.27 of the Act). Our recruitment of all positions features input and participation by young people or young adults who have had an experience of living in care. This provides them with the opportunity to learn about training in merit selection, developing interview questions and participating on interview panels. We pay them an appropriate honorarium for their two days of work. This was the case for all positions filled during the reporting year.



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

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

- Kurlana Tapa Youth Justice Centre staff (14 July and 5 August 2020)
- DCP - Promising Practice, (13 October 2020)
- SA Rights Resource Network – Detention and Detainees’ Rights (10 December 2020)
- ‘Feel Good’ Nunga Radio (14 December 2020)
- CREATE – Hour of Power Forum and panel discussion (19 February 2021)
- Law Society SA – ‘The Legal Rights of Forgotten South Australians’ (25 February 2021)
- AC Care – Importance of Foster Carers (16 March 2021)
- CAMHS – Keynote – Working Together Post Covid-19 (17 March 2021)
- ANZCCG – Briefing and discussion, with Professor Leonie Segal (26 March 2021)
- Josephite Reconciliation SA Circle – Children and Young People in care and detention (12 April 2021)
- Therapeutic Residential Care Network – ‘The work of GCYP’ (16 April 2021)

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

- DCP social work students – The functions of GCYP – Courtney Mostert, ARO (21 October 2020)
- Lifestyle Solutions (Out-of-Home-Care Service Provider) – The functions of GCYP – Courtney Mostert, ARO (15 January 2021)
- ‘Our Voice’ (DCP, young people in care) – Their rights and the role of GCYP – Courtney Mostert, ARO (20 January 2021)
- National Foster and Kinship Care Conference – ‘Good Transitions’ – Merike Mannik, Principal Advocate (11-12 June 2021)

### *Sharing the knowledge and information of the office*

We published 43 blog posts on our [website](#).

We appeared 48 times in the media (this includes online news articles, TV and radio)

As well as numerous private consultations, we made the following public submissions and responses:

- [Feedback on the Draft Model of Care for Phase 1 of Youth Treatment Orders](#) – December 2020
- [Submission for the review of the Children and Young People \(Safety\) Act 2017](#) – October 2020
- [Feedback on the Safeguarding Task Force Report](#) – September 2020

## 4.2 Advocate

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

### *Enquiries received by GCYP in 2020-2021*

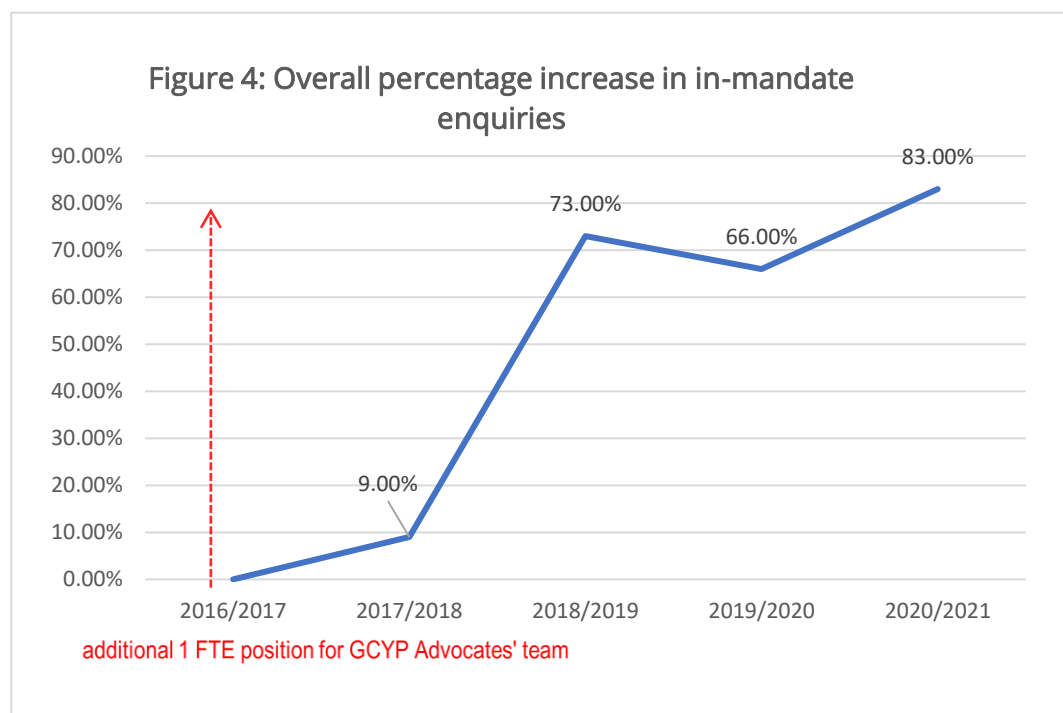
In 2020-2021, GCYP received 489 enquiries, of which 431 fell within the GCYP's 'mandate' or scope of responsibility. In other words, they were requests for assistance in relation to children and young people under the guardianship, or in the custody of, the Chief Executive of the Department for Child Protection. This represents a 10% increase compared to the 391 in-mandate enquiries of the previous year (2019-2020).

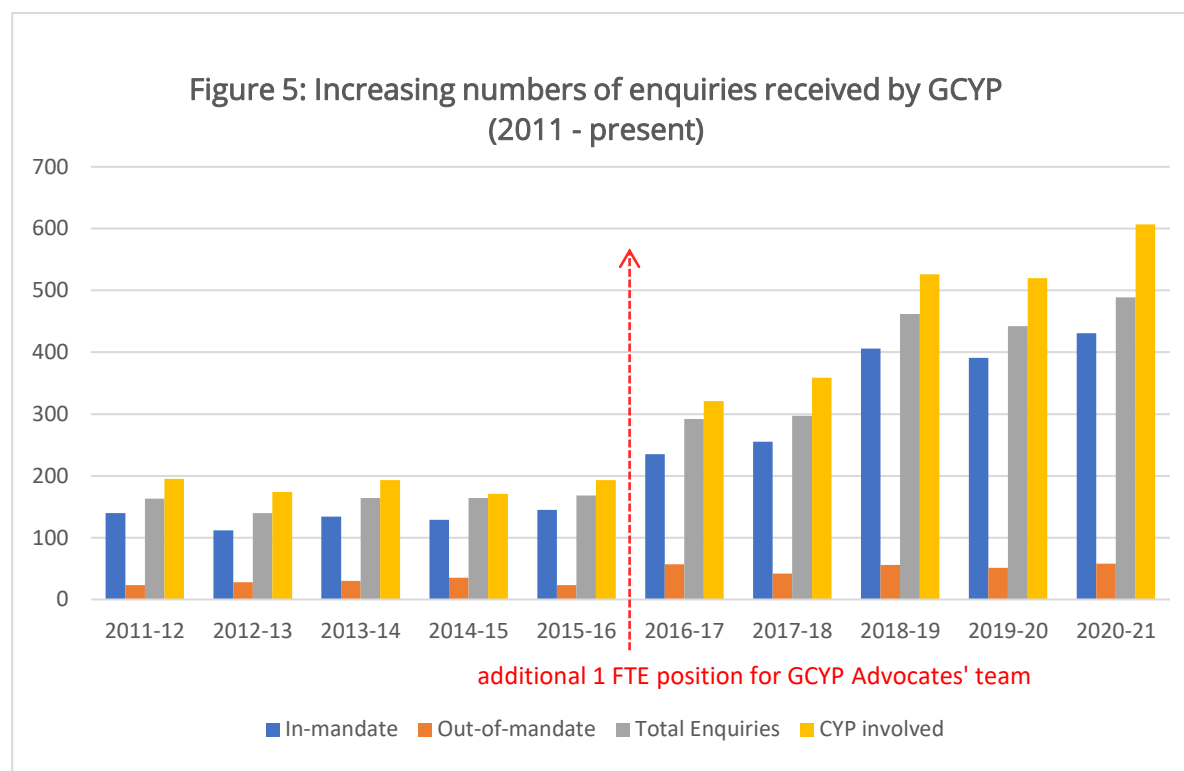
The remaining 58 enquiries were 'out of mandate' (ie did not relate to children and young people in state care) and, where appropriate, they were referred to other agencies. This represents a 13% increase in the number of out-of-mandate enquiries compared to 2019-2020.

### *Increasing numbers of enquiries received by GCYP*

GCYP has seen a 200% increase in total enquiries over the past 10 years, and an even greater (208%) increase in 'in-mandate' enquiries. As some enquiries relate to more than one child, there has been a 211% increase in the number of children and young people to whom enquiries relate, over the same time period.

The Guardian's Advocacy team was last increased by one full-time position in January 2017. There has been an 83% increase in 'in-mandate' enquiries since then.





### *Enquiry types*

Of the in-mandate enquiries received, 307 (71%) were requests for advocacy and 68 (16%) were consultations about other action that could be taken regarding a child's (or a group of children's) circumstances.

The remainder (13%) primarily related to:

- complaints (which were re-directed)
- actions arising from GCYP's Annual Review Audits (under the monitoring function), and
- information sharing between agencies.

### *Child and young person demographics*

A single enquiry sometimes relates to more than one child or young person in care, and multiple enquiries are sometimes raised by, or about, the same individual. The 431 in-mandate inquiries received by GCYP were about the circumstances of 607 children and young people, in total, (an increase of 15% from the previous year) and related to 476 individuals.

Twenty-nine per cent of children and young people (175) were identified as Aboriginal or Torres Strait Islander. Three per cent of children and young people (21) were identified as Culturally and Linguistically Diverse (CALD).

From the total number of in-mandate enquiries received by GCYP in 2020-21, 20% of children and young people (124) were reported by the enquirer to have known disabilities. The highest prevalence was intellectual disability and autism spectrum disorder.

### *Enquiry pathways*

Each in-mandate enquiry is assessed against a threshold for intervention.

The most common 'in-mandate' enquiry pathways were:

- 249 (58%) met the threshold and were either referred to an Advocate, or retained by the Assessment and Referral Officer, for further assessment, monitoring and/or advocacy
- 118 (27%) did not meet the threshold for GCYP intervention and were referred to other services
- 23 (5%) were assessed as requiring no action by GCYP unless and until direct contact was received from the young person
- 23 (5%) were not progressed because the advocacy request was withdrawn or the enquirer disengaged from the assessment process.

### *Referral source*

Over the course of the year, 162 children and young people in care self-referred to GCYP, initiating a total of 37% of enquiries. (This was 2% more than last year's total of 35%).

Birth parents and other relatives accounted for 68 enquiries (16%) and foster and kinship carers totalled 47 (11%). Internal referrals from other programs and functions within GCYP accounted for 36 enquiries (8%) and 39 enquiries were received from DCP or out-of-home care agency staff (9%).

Children and young people living in non-family-based care (which includes residential and commercial care) made up a highly disproportionate number of our enquirers. While they make up 12.9% of the care population, they constituted 58% of the enquiries received from children and young people during the year.

Similarly, young people living in independent living arrangements constitute only 1% of the care population but initiated 12% of enquiries.

In comparison, children and young people living in family-based care (foster, kinship, temporary, family day care, and specific child only) constitute the majority of the care population (85%) but the enquiries from them totalled only 14%.

Figure 6: Proportion of direct contact from children and young people by placement type

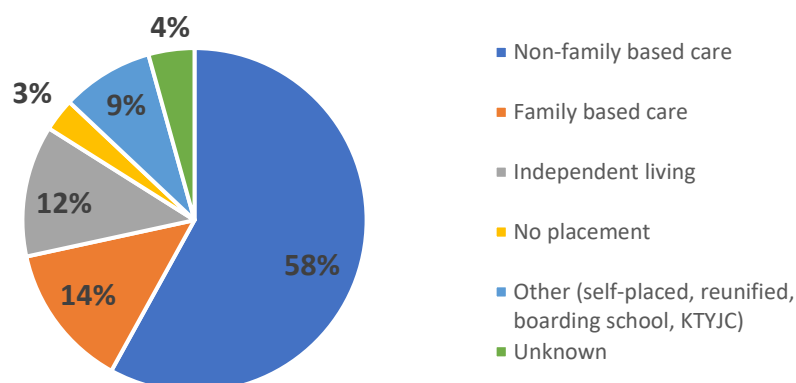
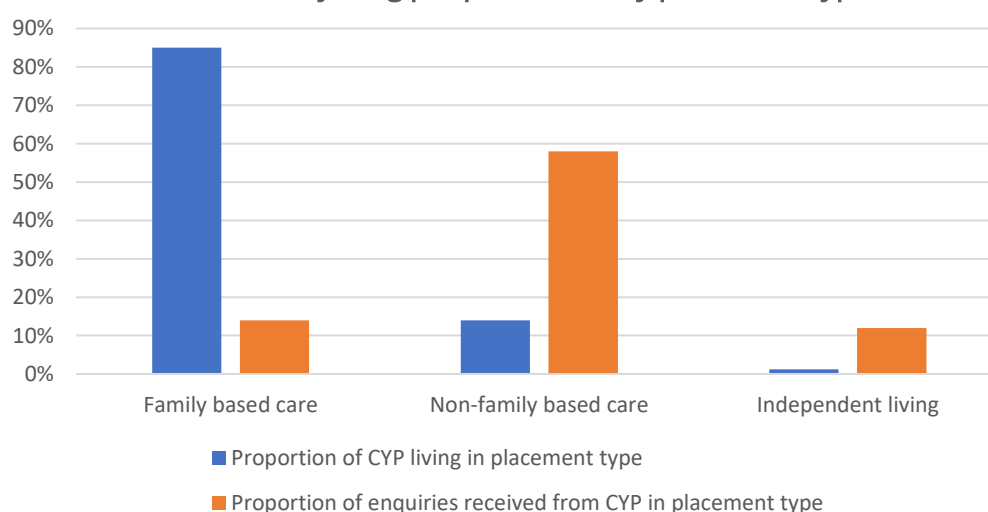


Figure 7: Proportion of children and young people who directly initiated enquiries, compared to the proportion of children and young people in care, by placement type



## Presenting issues – all enquiries

Across all enquiries, from both children and adults,<sup>5</sup> the most common presenting issues were:

1. Safe and stable placement (42%)
2. Contact with significant others (19%)
3. Case management and service coordination (14%)
4. Participation in decision-making (12%).

<sup>5</sup> excluding 'unknown' presenting issues and presenting issues categorised as 'other'

By contrast, when enquiries came directly from children and young people, the most common presenting issues were:

1. Safe and stable placement (43%)
2. Participation in decision-making (22%)
3. Case management and service coordination (20%)
4. Contact with significant others (17%).

### *Presenting issues - enquiries relating to Aboriginal children and young people*

Of the 175 enquiries relating to Aboriginal children and young people, the most prevalent issues were:

#### **Placement**

Most placement enquiries related to safety and stability. Other themes corresponded to relationships between young people and their carers, receiving appropriate care, not living in a nurturing environment and access to personal space. More than half of the Aboriginal children and young people who raised a placement issue were in non-family-based care placements (and primarily in residential care).

#### **Contact and Cultural Connections**

The second most common issue was contact with significant others, including their cultural connections. Associated themes were about not having contact with their Aboriginal community and not being able to return to their country.

#### **Case Management/Service Coordination**

Case management and service coordination issues were also prevalent. This category included requests to change case managers, requests for GCYP to take on intermediary functions between young people and DCP, as well as having access to services and supports.

#### **Other**

Participation in decision-making and planning for transition from care were also raised several times. Young people wanted to be heard and have a say in decisions that affected them, as well as young people who were not clear about their Transition from Care plans, or who did not have Transition from Care Plans at all.

### *GCYP Roles and Case Studies*

Over the last three years OGCYP has refined and more clearly articulated the various advocacy roles undertaken by the Guardian and the Advocacy Team, according to the nature, seriousness and complexity of the presenting issues.

#### **Level 1 Advocacy (Direct)**

Level 1 Advocacy (Direct) seeks a quick resolution of the issue/s. We typically speak or write to the relevant DCP office, at the local level, to represent and support the child or young person's direct voice or request, with the aim of resolving the presenting issue/s early, to avoid escalation to the next level.

The following case studies illustrate some of the advocacy work undertaken by OGCYP. All identifying information has been changed to protect the privacy of children and young people.

### ***Case Study: 'Oliver' – Placement stability and sibling connection***

*GCYP was contacted by 6-year-old Oliver who was living in a commercial care placement with three of his siblings. All four children were in the process of being reunified with a birth parent in the coming months but Oliver's Social Worker had informed him that he would be moving to a foster placement over the coming weekend and that, before this, he would be meeting the foster carers. Oliver cried and said, "I want to stay with my family". A GCYP Advocate contacted DCP and they put the meeting with the foster carers on hold. Following a visit from the Social Worker to Oliver, DCP decided, in view of Oliver's clear voice to stay with his siblings and due to the reunification plan, not to proceed with the foster placement for Oliver. Oliver was able to remain with his siblings in their current placement while reunification was being progressed.*

### ***Case Study: 'Levi' – Sibling connection***

*GCYP received a request for advocacy from the siblings of 10-year-old Levi. The siblings were in a foster placement and Levi was in a different foster placement. Levi was visiting them for respite over weekends and became increasingly distressed at the end of the weekend when he had to leave. The siblings wanted Levi to be placed with them; however, they felt they were not being listened to. Levi also contacted GCYP and confirmed that he wanted to be placed with his siblings but that his Social Worker had told him it would 'take months' to arrange. A GCYP Advocate contacted DCP and the placement request was approved the same day. The foster carer reported that when she brought Oliver home and pulled up in the driveway, he said, "Finally, now I can say home sweet home".*

### ***Case Study: 'Charlotte' – School***

*Charlotte, aged 11, contacted GCYP and requested advocacy to support her voice with DCP. She wanted to transfer to a senior school along with her friends from primary school but explained that the Social Worker had not made an application so she had missed the deadline and would now have to stay in primary school for another year. The Advocate contacted DCP and arrangements were made with the Department for Education, which enabled Charlotte to transfer to her preferred school with her friends.*

## **Level 1 Advocacy (Best Interests)**

Level 1 Advocacy (Best Interests) also involves speaking or writing to the relevant DCP office, at the local level, to represent and advocate for GCYP's position on the child or young person's best interests. 'Best interests' advocacy can occur without the involvement or consent from the young

person and without seeking their direct voice if it is not possible, or not desirable, to obtain the child's voice.

### ***Case Study: 'Cooper Street' – Placement Matching and Safety***

*14-year-old 'Joe' was living in a residential care placement, 'Cooper Street'. Over a 2-month period, more than 10 other children were moved in and out of Cooper Street due to placement pressures and shortages. The constant rotation of children, most of whom were much younger than Joe, disrupted Joe's stability and sense of 'home' at Cooper Street.*

*Due to Joe's own trauma experiences, he frequently exhibited intimidating behaviour towards younger children and the carers, including screaming, swearing, verbal threats, and disrupting their sleep. It was reported to GCYP that the young children who were previously placed with Joe were terrified by these behaviours.*

*At the time GCYP became aware of these concerns, DCP had plans to move another sibling group into the placement the next day, despite the clear history of safety concerns resulting from the placement of younger children with Joe. Joint advocacy from GCYP and the children's DCP Case Managers, via phone calls and a meeting, secured an agreement from DCP Residential Care that the sibling group would not be placed at Cooper Street until the safety concerns could be addressed.*

### **Level 2 Advocacy (Direct)**

Level 2 Advocacy (Direct) involves a timely assessment of the presenting issues raised by the child or young person (through discussions with relevant stakeholders and requests for relevant documentation) and then the development of a formal, written advocacy position usually submitted to DCP Management, DCP Executive or the Placement Services Unit for consideration. This generally occurs when we have not been able to resolve issues at the local office level or the matter is considered serious and/or urgent.

### ***Case Study: 'Jaxon' – Placement Stability***

*11-year-old Jaxon had been living in a commercial care placement for several months while DCP was working on a plan for him to safely return home to live with his Dad. Jaxon said he felt safe, happy and comfortable at his placement and knew he'd be going home to live with Dad soon. One day, Jaxon's Case Manager told him that he would have to move to another placement soon because DCP was "shutting down all the commercial care houses". Jaxon said he had grown close to his current carers and that it would hurt to lose them. Jaxon said, "I don't want to start all over again" and told GCYP that he felt he didn't have a voice in the decision. GCYP successfully advocated with DCP Executive for Jaxon to stay at his commercial care placement until he was reunified with his Dad, preventing an unnecessary and destabilising placement move for Jaxon.*



## Level 2 Advocacy (Best Interests)

We undertake Level 2 Advocacy (Best Interests) where either Level 1 Advocacy (Best Interests) has not achieved an appropriate outcome for the child or young person, or where the matter is very serious, complex and/or time sensitive, and requires an immediate, high-level response. This involves the development of a formal, written advocacy position, representing GCYP's position on the best interests of the child or young person, which is usually submitted to DCP Management, DCP Executive or the Placement Services Unit for consideration.

### ***Case Study: 'Maggie' – Placement Transition Planning***

*9-year-old Maggie had experienced more than a dozen placement moves in her short life, before being placed in a commercial care placement where she had lived for almost 3 years. Maggie had finally settled at this placement and the carers were able to meet her complex needs, which stemmed from her trauma history and diagnosed disability. One day, GCYP was contacted about concerns that DCP intended to move Maggie to a residential care placement that afternoon, with no transition, as part of the ongoing effort to phase out commercial care. GCYP successfully advocated with DCP Executive against the same-day placement move, preventing unnecessary trauma, grief, and loss for Maggie. GCYP then monitored the development of a transition plan for Maggie, to ensure the placement move was subsequently carried out in a planned and supported manner.*

### ***Case Study: 'Ava and Ella' – Placement Safety***

*GCYP received information regarding safety concerns for two siblings Ava and Ella, aged 9 and 11, whose placement was de-stabilised when an older young person, Camilla, who exhibited extreme behaviours, was placed in their residential placement. GCYP submitted a formal advocacy position to DCP Executive Services which had a successful outcome. Camilla was moved to an alternative placement and provided with additional support at her new placement.*

## Monitoring (Direct)

In some cases, we adopt a monitoring role, often in conjunction with or after initial or more sustained advocacy. Most commonly, we will monitor matters where case direction is aligned with the child or young person's direct voice, and there is a clear plan as to how to achieve resolution of the presenting issues but we feel the need to keep an eye on progress. Monitoring involves maintaining regular contact with the child or young person and DCP to make sure that the plan is progressed in a timely way and the issues are appropriately resolved.

### ***Case Study: 'Mario' – Independent Living***

*16-year-old Mario contacted GCYP after experiencing several placement breakdowns, and was then placed in temporary accommodation with a non-government organisation (NGO). The temporary accommodation did not afford Mario the privacy or independence he needed as a 16-year-old young man. Mario had experienced significant trauma and constant change throughout his life, and he spoke about wanting an independent living placement on his own, where he could feel safe and have stability for the years to come. GCYP worked with Mario's DCP Case Manager and the NGO to represent and advocate for his voice. GCYP monitored Mario's circumstances until DCP found a suitable independent living placement for him, where he could remain post-care.*

### **Monitoring (Best Interests)**

GCYP adopts a Monitoring (Best Interests) role where it has not been possible to gain the child or young person's direct voice, often due to their young age or disability. This form of advocacy frequently occurs in conjunction with or after initial or more sustained advocacy. A Monitoring (Best Interests) role is most appropriate where there is consensus between GCYP and DCP (and sometimes other service providers) about how to meet the child or young person's needs and best interests and there is a clear plan to resolve the presenting issue/s. In this role we maintain regular contact with DCP (and other relevant stakeholders) to make sure that the plan is progressed in a timely way and the issues are resolved.

### ***Case Study: 'Jasper' – Case Management***

*GCYP was notified of concerns regarding 5-year-old Jasper's safety in his family-based placement. When GCYP followed up with DCP regarding the strategies they had in place to monitor Jasper's wellbeing and seek his views about his safety in placement, GCYP learned that Jasper was not receiving regular face-to-face contact with his DCP Case Manager. GCYP monitored the case until appropriate therapeutic supports were in place for Jasper, regular care team meetings were occurring, and his DCP Case Manager was visiting him monthly.*

### **Intermediary**

We take on an intermediary role for the child or young person to facilitate and mediate communication between the child and young person and other parties (such as case managers, other DCP staff, schools or lawyers). The primary aim is to increase common ground and shared understanding between the child and other parties so that they can work together to solve problems while keeping the focus on the child, their needs and best interests. Sometimes GCYP acts as an intermediary because the relationship between the child or young person and DCP has become fractured and is hampering communication, involvement of the child or young person in decision-making and, in the end, positive outcomes.

The intermediary role involves attending meetings and case conferences with, or on behalf of, children and young people to help them to successfully navigate systems in their lives and to build life skills in negotiation, assertiveness, and self-advocacy.

### ***Case Study: 'Sarah' – Sibling Contact***

*16-year-old Sarah contacted GCYP for support as she felt that her request to have contact with her younger sister was not being actioned by her sister's Social Worker. With Sarah's permission, the Advocate arranged and attended a meeting between Sarah, her Social Worker and her sibling's Social Worker. During the meeting, Sarah was able to ask questions and had the opportunity to hear why contact was not taking place at that time, which was for valid reasons. With the Advocate's support, all Sarah's concerns, questions and wishes were heard and answered by the Social Workers. It was agreed that Sarah could send letters, gifts and videos (via her Social Worker) to let her sister know she is thinking of her. Sarah could also call her Social Worker any time she wanted an update on how her sister was going. Sarah was happy with this outcome.*

### **Independent Observer**

Under the *Children and Young People (Safety) Act 2017* (the Safety Act), the South Australian Civil and Administrative Tribunal (SACAT) gained jurisdiction over the review of some DCP decisions. Section 62 specifically requires that in any proceedings under the Safety Act, a child or young person to whom the proceedings relate must be given a reasonable opportunity to personally present to the Court their views related to their ongoing care and protection. In the Independent Observer role, GCYP Advocates may provide support to children and young people to explain the SACAT process to them in a 'child friendly' way and to ensure their voice is heard, separate from the views of others such as carers, birth family or DCP.

GCYP did not act as an independent observer during the 2020-2021 financial year.

## **4.3 Monitor**

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

The Guardian has a statutory obligation to monitor the circumstances of children and young people in care. The Advocacy Team carries out a range of 'monitoring' activities including visiting residential care homes, attending children and young people's annual reviews and monitoring allegations of sexual abuse. In addition, the Senior Policy Officer receives, analyses and reports on relevant data.

### ***Reporting on Data***

We published the following reports (as well as our regular report on the circumstances of children in care in Government Schools, in June 2020) :

- [Review of the Charter of Rights for Children and Young People in Care](#) – January 2021

- [South Australian child protection expenditure from the Report on Government Services 2021](#) – March 2021
- [Snapshot of South Australian Aboriginal Children and Young People in Care and/or Detention from the Report on Government Services 2021](#) – May 2021

### *Visiting Residential Care homes*

#### **‘Meet and Greet’ Visits – September to October 2020**

After Covid-19 restrictions were lifted last year, GCYP Advocates conducted two in-person ‘meet-and-greet’ visits at residential care properties, to acquaint the children and young people with OGYP and to ensure they were aware of their rights.

Seven children and young people, aged between seven and 17, participated in these visits. Advocates engaged with the young people and afterwards they followed up on issues raised by the children and young people, including restrictive practices, staff ratios and cultural activities.

#### **Residential Care Audit Visits – January to June 2021**

Between January and June 2021 the Office of the Guardian rolled out a program of comprehensive residential care audit visits which built on the previous residential care visiting scheme trialled by the office between 2017 and 2019. It was designed to be a foundation for the Child and Young Person’s Visiting Scheme recommended by Commissioner Nyland and legislated in Chapter 9 of the *Children and Young People (Safety) Act*, if resourced.

GCYP Advocates visited seven residential care properties, accommodating a total of 32 children and young people, aged between six and 17 years. (One of the properties was a large congregate unit housing nine residents.) Seven of the young people were Aboriginal, one was culturally and linguistically diverse (CALD) and four had a diagnosed disability. Four of the seven properties were in the metropolitan area and three were in regional areas. Three of the houses were managed by Non-Government Organisations (NGOs) and four were managed by DCP.

Advocates visited after school, spending the afternoon and evening in activities and conversation with children and young people and sharing dinner with them. During this time, Advocates heard from children and young people about their lives (likes, dislikes, what was going well and not so well, and any worries or concerns), and observed interactions between the residents and with workers.

Before the visits, Advocates reviewed a range of records (including Critical Incident Reports and Missing Person Reports) to alert them to potential areas of concern or sensitivity. They then visited children and young people in their residential care house or unit, to acquaint them with the role of the Guardian, talk with them about their experiences and any issues they wanted help with, and to inform them about their rights.

During visits, GCYP Advocates took into account the young people’s voices, together with staff views, the relevant records and their own observations to assess the degree to which the children and young people’s needs for safety, stability and physical, emotional, cultural and psychological support were being met. The basis of this ‘audit’ was a set of twelve standards (‘Wellbeing Statements’) developed by the Principal Advocate to reflect requirements

encapsulated in the Charter of Rights. Each visit was followed by a comprehensive report to the managers of the residential care home, and DCP, which included recommendations to ensure that residents' needs are being met and that their living environment supports them to grow and thrive.

Here are some of the things children and young people told the Advocates at the visits:

#### About living at their house...

- One young person, who had been living in residential care for 3 years, since the age of 9 years, talked about her long-held wish for *"a forever home"*.
- One child replied with *"good and bad"*, when asked about how things were going for him at the house, adding that what he likes best is watching Netflix and, in terms of what he doesn't like, stating, *"I hate the world"*.
- Another young person liked his house and the carers but said he hates that he can't access food whenever he wants.
- Several young people talked about liking their carers and getting along well with most of them, most of the time – *"some are annoying", "some are more fun and do more activities than others"*.
- One young person said that *"I spend most of my time in my bedroom"*, adding that living with another resident *"is really hard; he breaks things and is mean to all of us...he kicked my bedroom door in while I was locked inside and it left a big hole in the door"*.
- One young person told Advocates that she gets along with her co-residents but that while everything was *"ok at the moment"*, it would *"go downhill again"* because *"that's what always happens"*.

### About living at the larger, 9 bed unit...

- Several young people talked about the impact of frequent resident changes, reflecting that lots of young people come and go, and they are not sure who will be moving in next.
- One young person reflected that his placement does not feel like a home but a "*Detention Centre*".
- One young person who recently moved to the unit, stated that he liked living there, "*because there is always something going on*". He then reflected further on this comment and concluded that it was not a good idea for him to remain in this placement *because* of all the things that were going on (running off, smoking marijuana, and doing what you want, when you want).
- Another young person stated that people often bang on his window at night, causing interrupted sleep.
- One young person advised that she had to miss her family access that day, because she was locked in her house wing while an incident was occurring.
- Two young people stated that, while the care team at the unit is large, they always feel they have someone in the unit they can go to, if they need to.

### About culture...

- An Aboriginal young person spoke about wanting to learn more about his culture and that he would like to visit the area where his cultural group is from, commenting that "*It'd be cool to meet our tribe*".
- Another young person spoke about wanting to return to his hometown, speaking longingly about the things that he would do, such as camping, fishing and being taught about his culture by an Elder.

This year, key themes arising from our visits to Residential Care are discussed, together with other significant themes and issues in [Part 5](#) of this report.

## Key themes from Residential Care Visits

### Physical and Emotional Safety

It is an unfortunate reality that physical and emotional abuse by co-residents, either directly experienced or witnessed, was a common experience shared by most of the young people visited. Some chose to talk to the Advocates about specific incidents in graphic detail and disclosed the fear and distress they lived with daily, while Advocates became aware of traumatic encounters for others when reviewing Critical Incident Reports. One young person had their nose broken in a physical altercation with a co-resident; another had "*chunks of my hair*" pulled out and another was threatened with a knife. SAPOL regularly attends some houses in response to critical incidents, and their attendance can also be a trauma trigger for some young people. One young person spoke about an incident where "*8 police and 4 ambulances were called*", adding that she is frightened of the police.

Some young people regularly leave their placement and engage in risk-taking and sometimes unlawful behaviours in the community, compromising their safety and putting them at risk of exploitation in the community. Negative peer influences, particularly in larger residential settings, also place young people at increased risk of substance use, criminal activity and becoming involved in the youth justice system. These themes are discussed further in [Part 5](#) of this report.

Due to extremely serious safety concerns, the Guardian submitted a formal advocacy position following a visit to one house, and then undertook vigorous monitoring to ensure an ultimately successful outcome for the four young people involved. This took three months to achieve. After another visit, a report was made to the Child Abuse Report Line (CARL) based on a disclosure from a young person.

### **Placement Shortages and Matching**

The ongoing and growing systemic issue of placement shortages is exacerbating problems with placement matching and, in some cases, compromising safety. This is discussed in [Part 5](#) of this report.

A common recommendation from the audit visits was to review the suitability of the young people remaining placed together, in consideration of their care needs, individual complexities and conflictual relationships with each other.

### **Staff Shortages and Inconsistent Care Teams**

Audit visits to four (of the seven) residential properties noted concerns regarding staff shortages and regular use of external agency staff to fill emergency shifts at the house and to cover staff leave. This creates inconsistency in the care team; it is unsettling for young people and can affect the quality and standard of care they receive, especially where relief staff are not familiar with agency policies and procedures or the needs and routines of the young people.

### **Restrictive (Environmental) Practices**

The use of restrictive environmental practices (ie locked back doors, locked bedrooms requiring master key entry, locked pantry, locked kitchen cupboards and televisions with protective coverings) was inconsistent across the seven properties. Approaches ranged from minimal practices, only implemented for clear safety reasons (eg keeping sharps locked in the office), through to significant, such as keeping the back door permanently locked and young people needing to ask staff to be let outside to play in the backyard.

In the large Unit, the entry doors and the doors to each wing were locked and it was noted several times during the visit that young people had to gain staff attention or press the intercom for doors to be buzzed open. Some young people reported that they felt this was “ok” because it keeps them safe, while others felt as if they were being locked up.

### **Access to Personal Space**

GCYP was pleased to note that the young people commonly had their own rooms, decorated to their individual tastes.



## **Commitment of Residential Care Staff**

At all the visits, staff were observed to engage constructively with the young people and showed genuine care towards them. It was heartening to note that carers had established positive relationships with the young people, demonstrating clear understanding of, and responsiveness to, each young person's needs and their distinct personalities.

At two properties, staff provided the Advocates with examples of times they had strongly advocated for the young people, including developing and actively promoting proposals for them to attend sporting events and camps, in line with the young people's voices, and supporting a CALD young person with their cultural identity, community connection and aspirations.

We commend the residential care staff at all seven properties for their committed support of the young people. They work in what are often very difficult, trying circumstances due to the complex mix of residents and the significant challenges that come out of this mix.

## **Therapeutic Approach to Care Provision**

The therapeutic framework for care provision in NGO houses was evident and reflected in the way Positive Behaviour Support Plans were written and the structure of Incident Reports. There were also some excellent examples in the Incident Reports for one DCP house of staff successfully implementing therapeutic crisis intervention strategies to de-escalate and co-regulate a child.

DCP has introduced the Sanctuary Model to enable staff in DCP-managed facilities to provide the therapeutic care environment that most children and young people in residential care need. This is further discussed in [Part 5](#) of this report.

## **Residential Care Visits – The Way Forward in 2021-22**

As stated, this rigorous and comprehensive model for residential care visiting was designed to meet the functions of the Child and Young Person's Visitor role and Child and Young Person's Visiting Scheme provided for in Chapter 9 of the Safety Act. However, without dedicated resourcing it is not able to be sustained by the current Advocacy Team of five.

In 2021-2022 GCYP will conduct 'limited' monitoring visits to up to 20 of the over 200 residential facilities currently housing children and young people in South Australia. These visits will have a dual focus. We will 'meet and greet' children and young people to acquaint them with their rights and the work of the Office of the Guardian and, using an activity-based approach, we will obtain their views and voices about a monitoring theme for the year related to a particular wellbeing outcome (such as safety or education).

We will also strive to conduct a small number of responsive visits to facilities where we have become aware of serious issues, such as children's safety, that warrant investigation. It will be necessary to undertake a (necessarily limited) review of records and incidents in conjunction with these visits. However, on current resourcing it will not be possible to undertake random audit visits to ensure the Guardian oversees a statistically representative number, or geographical range, of facilities.

This model will be rolled out in the next reporting year.



## Annual Review Audits

### Background

Every child in care is entitled to have DCP formally review their circumstances at least once per year<sup>6</sup>. One of the key tasks shared by the GCYP Principal Advocate and the Advocate for Aboriginal Children is to audit a proportion of these DCP annual reviews to gain an overview of the circumstances of children in care in South Australia and how they are faring, generally.

Annual review audits focus on monitoring wellbeing outcomes for children and young people in out-of-home care, to support individual children and to measure wellbeing overall. The audit process involves us looking at case planning processes, because these are integral to achieving outcomes, and attending annual reviews.

We have developed 12 standards ('Wellbeing Statements') which reflect rights set out in the Charter of Rights for Children and Young People in Care.

Using these standards to compile a Wellbeing Checklist, we document the total number and percentage of children and young people for whom the particular standard was assessed as being 'Met' from their annual review audit. Appendix B contains a table which sets out the results for 2020-2021 and compares them with 2019-2020.

The purpose of the audits is to strongly promote the need for a child/young person to be included in their annual review and decision-making process, to assess whether the child/young person's best interests and support needs are being met, and to contribute to learning and continuous quality improvement in the out-of-home care system.

In some instances, we will take on individual or systems advocacy as a result of attending annual reviews and/or monitor that the completion of casework actions is timely, to address gaps in the support and care children are receiving.

### Summary

In the 2020-2021 reporting year we conducted a total of 231 annual review audits, across 16 of the 19 DCP offices that were providing case management to children and young people in care. This represents 5% of annual reviews.

(In 2019-2020 we completed 461 audits, which was 10% of annual reviews. However, in response to resourcing constraints, this target was reduced to 5% for 2020-2021.)

The audits were completed by the GCYP Principal Advocate, the Aboriginal Advocate and the Assessment and Referral Officer.

The three DCP offices not covered in 2020-2021 (Hindmarsh, Ceduna and Port Lincoln) will be prioritised for annual review audits in 2021-2022, together with the Salisbury office, where only one annual review was audited. See Appendix A for a breakdown of annual reviews by DCP office.

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<sup>6</sup> Section 85 of the *Children and Young People (Safety) Act 2017*

Of the 231 annual reviews audited, 110 (48%) were for Aboriginal children and young people, with an additional 6 (2%) needing to have Aboriginality confirmed; 106 (46%) were for those who were Other Australian, and 9 (4%) were for children and young people with culturally and linguistically diverse backgrounds (CALD).

### Culturally and Linguistically Diverse (CALD)

Of the nine children and young people with CALD backgrounds, five had Cultural Identity Support Tools in place.

### Aboriginal

One hundred and fifteen or nearly half (49%) of the annual reviews audited were for Aboriginal children and young people (with a further six whose Aboriginality was yet to be confirmed).

**Figure 8: Aboriginal (and Torres Strait Islander) children and young people (n:115)  
– data ‘snapshot’**

Aboriginal (and TSI) Children and Young People – Place with:			
Extended Aboriginal Family	Extended Non-Aboriginal Family	Aboriginal Foster Carer	Non-Aboriginal Foster Carer
32 (28%)	7 (6%)	11 (9%)	32 (28%)
Aboriginal Residential Care	Non-Aboriginal Residential Care	Commercial Care	Other
3 (3%)	16 (14%)	-	14* (12%)
<p>NB: This data was not recorded for 1 young person whose Aboriginality had not been confirmed and who was recorded in their case plan as not being Aboriginal.</p> <p>*‘Other’ refers to a young person who had been reunified, a non-Aboriginal Family Day Carer, a family member’s former partner, who is not Aboriginal, non-Aboriginal SCO carers (x5), Aboriginal SCO carers (x2), independent living placements (x2), an emergency kinship placement, and a non-Aboriginal family friend (who was approved as a kinship carer).</p>			
<p><i>If CYP is not placed with extended Aboriginal family</i></p> <p>The Aboriginal Child Placement Principles were followed in determining the placement:</p>			
Yes	No	Unclear (from the audit process)	
87	-	16	

Aboriginal Cultural Identity Support Tool (ACIST)			
Not commenced	Commenced	Completed (signed off)	Completed (not signed off)
4 (3%)	15 (13%)	87 (76%)	9 (8%)
CYP has been supported with cultural connection (to family, community, country and meaningful cultural activities)			
Yes	Partly	No	
62 (54%)	45 (39%)	8 (7%)	

In relation to the audits for Aboriginal children and young people we note that:

- Principal Aboriginal Consultants were excellent at chairing annual reviews – engaging carers and young people well, skilfully managing meeting dynamics and challenging discussions, and providing sound practice guidance and case direction, where needed
- One hundred and four out of 115 reviews for Aboriginal children and young people (90%) had an independent Aboriginal representative on the annual review panel
- Only seven annual reviews for Aboriginal children and young people (6%) required advocacy or monitoring. Three of these were in relation to safe, stable and culturally appropriate placements, while the other four were in relation to appropriate service provision and access to supports and education. One Aboriginal young person contacted OGCYP after their annual review for ongoing advocacy relating to their placement. All advocacy and monitoring arising from annual reviews for Aboriginal children and young people was undertaken by the Advocate for Aboriginal children.
- Four of these seven matters have since been closed, with positive outcomes for the young people. The other three matters remain open; however, all were progressing towards positive outcomes at the time of reporting.
- Ninety-six out of 115 ACISTs (84%) had been completed, with nine of these (8%) still to be reviewed and approved by the Principal Aboriginal Consultant. Fifteen ACISTs (13%) had been commenced and four (3.4%) had not been commenced
- Eighty-five (73%) of the Aboriginal children and young people whose reviews were attended had an Aboriginal Life Story book. However, it was unclear in most cases whether these were being actively worked on with the children and young people
- Thirty-two Aboriginal children (28%) were living with extended Aboriginal family members, with a further seven children (6%) living with non-Aboriginal extended family members
- Sixty-two Aboriginal children and young people (54%) were considered to have had their cultural connections supported

'Aboriginality to be confirmed' remains a complicated and particularly sensitive space, raising the important question of how such cases (six in this audit period) can best be managed in a way that ensures children's Aboriginal heritage is not missed, while also making sure that children are not incorrectly identified. Both scenarios have potentially damaging and lifelong ramifications for children and young people's sense of self, identity, belonging, family and community connection and wellbeing.

## Disability

From the annual review audits, a total of 57 children and young people had a diagnosed disability (25%). Of these, 52 were eligible to receive NDIS funding and NDIS plans were in place for 50 of them. NDIS plans had been commenced for the two other children and young people in this cohort.

We heard excellent feedback, at many of the reviews for children and young people with a disability, about the work of DCP's Lead Disability Consultants, with examples of Consultants providing valuable assistance to case management in navigating the NDIS system and seeking funding reviews for children and young people where the need for funding increases had been identified.

### Case Study: 'Karen and Leslie' – Monitoring from Annual Review

*OGCYP assumed a monitoring role for siblings, 6-year-old Karen and 10-year-old Leslie, after their annual review identified gaps in the service they were receiving with the result that the young people were not having access to appropriate health and disability supports or active case management support. This was exacerbated by their placement in Queensland. The young people returned to South Australia into a kinship placement, began to see their case manager regularly and appropriate supports were implemented so that their health and disability needs were met.*

## Care Types

Annual review audits were conducted across all care types, with 83% of children and young people (192) living in family-based care, which includes foster care, kinship care, Specific Child Only Care and Family Day Care (Guardianship).

Figure 9: Placement Category

Foster Care	Kinship Care	SCO	Family Day Care (Guardianship)
86 (37%)	83 (36%)	16 (7%)	4 (2%)
Residential	Independent Living	Self-placed	Other
28 (12%)	5 (2%)	3 (1%)	6* (3%)

\*'Other' = PaSP (2), Reunified (1), temporary SCO placement (2) and emergency kinship placement.

## **Participation by Children and Young People**

The attendance of children and young people at their annual reviews remains low, with 78 out of 231 (34%) directly participating. It is noted that this is a 14% improvement on last year's annual review participation rate of 20% however 2020 was affected by Covid-19 constraints. Sixty seven of the 78 children and young people who attended their review did so in person (86%), with seven (9%) participating by videoconference and four (5%) by phone.

## **Child and Young Person's Voice**

Another way for children and young people to have their voice heard as part of case planning and at their annual review is through completing a Viewpoint Survey. Of the 162 children and young people of an age and developmental ability to be able to complete the survey, less than half (80) had done so. Barriers to completing this survey were cited as technological issues, length of the survey, use of triggering terminology in the questions (such as the word 'placement' instead of 'home'), and lack of cultural relevance for Aboriginal children and young people living in remote communities. We acknowledge that considerable work has been occurring within DCP, in consultation with children and young people, to develop a more 'user-friendly' survey format, with good progress occurring.

Including the child's photo on the front page of the case plan helps to personalise the annual review and keep it child focussed. Unfortunately, photos have been removed from DCP's new case plan template. While some DCP offices provide lovely A4 photos of children and young people at their annual review, this is not standard practice across the state.

There were some excellent examples at annual reviews of case plans that incorporated the voice of the child/young person, through direct quotes and sometimes through the inclusion of drawings or something written by the child. However, these were in the minority. It is noted that DCP offices with robust quality assurance processes in place, with Senior Practitioners and Supervisors reviewing case plans, achieved greater consistency in the quality of their case plans and in capturing the voice of the child/young person.

## **Life Story Work**

Children in care often have a disrupted understanding about their history and events in their lives, especially when they have experienced multiple placements. In total, 199 out of 231 children and young people (86%) had some form of record about their life (Life Story Book, scrapbook and/or a memory box), with 29 (13%) having no life story record (while this information was not known for three (1%) of the young people).

There are pockets of excellent practice across DCP offices when it comes to undertaking life story work with children and young people, particularly in regional areas. For instance, a comprehensive, child-centred Life Journey template has been developed and implemented as part of a social work student project, co-ordinated by a Principal Social Worker. Several DCP offices also utilise a volunteer to develop creative and colourful Life Story Books with children

and young people, which include lots of photos, the young person's aspirations and their achievements.

A practice issue identified for a small number of children and young people is the need for them to work with a therapist on developing a coherent narrative about their life and why they are in care. The commencement of this work has been hampered by long waiting lists for therapy, with only four young people undertaking life story work with a therapist.

### **Child and Young Person Wellbeing Checklist**

The total number and percentage of children and young people for whom a particular standard (Wellbeing Statement) was assessed as being 'Met' from their annual review audit is contained in a table in Appendix B.

The degree to which *physical and emotional safety, and cultural safety Wellbeing Statements* were assessed as 'met' this reporting year, decreased by 5% and 6%, respectively, to 88% and 83%.

The lowest wellbeing rating, specific to Aboriginal, and Culturally and Linguistically Diverse children, was for the child having contact with their culture and community (48%). This is a decrease of 8% from last year's figure of 56% and likely reflects the impact that Covid-19 restrictions have had on community cultural events and Return to Country trips.

Contact with family and/or significant others also dropped by 9%, from 82% to 73%, once again likely reflecting the impact of Covid-19 restrictions.

The most significant increases from last year in terms of achieving an assessment of 'Met' were for: access to recreational opportunities (up by 7%, to 97%), access to a secure personal space, which increased by 5% to 93%, and energetic advocacy by case workers which increased by an encouraging 14%, to 46% (but still leaving some way to go).

### **Follow up by GCYP – Advocacy or Monitoring**

Twenty-five out of 231 cases were followed up by GCYP from the annual review (11%), which is an increase from last year's figure of 4.5%. Placement safety and stability featured as the most prevalent issue for nine out of 25 children and young people (36%), followed by family contact and access to education or education support for six children each (24%). Review of NDIS funding and access to health services (paediatric assessments and psychologist) were both issues for three children and young people (12%).

Twice as many males as females presented with issues requiring GCYP follow up, and 21 out of the 25 children and young people (84%) were aged between five and 14 years. Sixty seven per cent had a diagnosed disability.

Figure 10: GCYP Follow Up, Advocacy and/or Monitoring from Annual Reviews (n:25)

Gender			Age Range				Disability	
Male	Female		0-4	5-9	10-14	15-17	Yes	No
17	8		2	11	10	2	10	15
Culture			Placement Type					
ATSI	Other Australian	CALD	Foster Care		Kinship Care		Respite Care	Residential Care/PaSP
7	17	1	6		4		3	12

Figure 11: GCYP Follow Up, Advocacy and/or Monitoring from Annual Reviews (n:25)

Issues Identified			
Placement Safety and Stability	Family Contact	Access to Education/Education Support	Review of NDIS Funding
9	6	6	3
Access to Health Services	Placement to be Sourced	Understanding of Being in Care	Other*
3	2	2	8
<p>NB: 6 young people had more than one issue identified.</p> <p>*'Other' = Casework Assist (2), interstate kinship assessment and approval (1), case transfer (1), restrictive practices (1), and provision of OGCYP Flash cards to young people with disabilities to promote rights (3).</p>			



## Monitoring Allegations of Sexual Abuse of Children in Care

### The 'R20' Process

This process was established in response to recommendation 20 of the Mullighan Inquiry in 2008<sup>7</sup>, which concluded that allegations of sexual abuse of children and young people in care, and their investigation, should be independently monitored by GCYP.

The current R20 process ensures that the Guardian receives notification about all Care Concern Referrals (CCRs) from the DCP Care Concern Management Unit (CCMU), in which:

- the allegation relates to sexual abuse and/or neglect, and
- ***the direct conduct or actions of the carer*** is alleged to have resulted in the child or young person's alleged exposure to sexual abuse.

In the R20 process, the Guardian's role is to monitor the progress, timeliness, and outcome of the investigations into the care concerns, and where necessary, advocate for the child's best interests. The Guardian convenes quarterly meetings which are attended by SAPOL (State Crime Assessment Centre & Public Protection Branch), the DCP Investigations Unit and the DCP CCMU. As well as monitoring the progress of investigation, we also consider systemic issues that may have contributed to the abuse and promote discussion about reforms that would keep children and young people safer.

In 2020-2021, we received 35 Serious Care Concern Referrals which were subject to investigation by SAPOL and/or DCP. This compares with 27 Serious Care Concern notifications in 2019-20. In addition, we monitored 19 investigations that were ongoing from previous years.

We also received 23 Minor and 27 Moderate Care Concern Referrals. This compares with 30 Minor and 37 Moderate Care Concern Referrals in 2019-2020. (It is necessary to note that the categorisation of these referrals as 'Minor', 'Moderate' and 'Serious' by the CCMU does not necessarily reflect the seriousness of the allegations, but rather the type of response assessed as appropriate at the time the allegations are raised).

Of the 85 Minor, Moderate and Serious Care Concern Referrals received by GCYP in 2020-2021, 34% (29) related to or included allegations of harmful sexual behaviour between children and young people in care. The concerns varied across the spectrum of harmful sexual behaviour - from sexual behaviour considered outside the normal or age-appropriate range (but not necessarily resulting in harm to *another* child), through to sexual offences for which the child could be held criminally responsible (if aged 10 and over).

It is important to note that Care Concern referrals do not paint a complete picture of *all* allegations of sexual abuse of children and young people in care. Other situations, including peer sexual abuse by other young people in care, and sexual abuse by 'strangers' in the community, often will not give rise to concerns about the quality of care the child received, and the Guardian may not be made aware of them. These situations are discussed in Part 5.7 of this Report in [Allegations of sexual abuse of children in care –beyond 'Care Concerns'](#)

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<sup>7</sup> E Mullighan, Children in State Care Commission of Inquiry pp. 23-24.



## 4.4 Advise

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

In the course of the reporting year the Guardian met with the Minister for Child Protection in July and October 2020 and in March and April 2021.

The GCYP provided the following formal advice to the Minister for Child Protection:

- Information about nature of GCYP Visiting of Residential and Commercial Care – Options and Risks (July 2020)
- Advice about the resources required to deliver all legislated roles of the Guardian for Children and Young People, the risks and consequences of non-delivery of some legislated functions, known systems advocacy issues that provide additional risks for children and young people and proposals for mitigation of those risks (September 2020)
- Advice regarding the phasing out of commercial care (September 2020)
- Advice that, as it currently stands, the Kurlana Tapa Youth Justice Centre environment is not capable of providing the support and effective treatment required for a child or young person who is detained due to being charged or convicted with a criminal offence and who has a significant mental illness and that, as with adults who are charged with an offence that has likely arisen from their illness, these children and young people need treatment in a secure but therapeutic setting staffed by skilled and qualified mental health practitioners. (April 2021)

## 4.5 Inquire

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

### *SADI (South Australian Dual Involved) Project*

Due to requirements to fulfil the Guardian's advocacy and monitoring functions the Office of the Guardian has not been in a position to fulfil the Guardian's formal inquiry function since 2016.

However, in early 2021, drawing on the skills and experience of Senior Advocate, Conrad Morris, who usually works in the Advocacy team, backed up by other staff, and notably Senior Policy Officer, Jessica Flynn, we instituted a short-term project to inquire into, and learn more about, the experiences of the dual involved young people we meet in the course of our work.

There is nationwide concern about children and young people who are involved in both the child protection and youth justice systems. Referred to as 'dual involved' because of their involvement in two systems, their circumstances have been considered in many reports and inquiries including the SA Child Protection Systems Royal Commission, the NSW Child Protection Inquiry, the Review of Victorian Youth Justice Services and the Royal Commission into the Protection and Detention of Children in the Northern Territory. More recently, GCYP published the report,

[‘A Perfect Storm’](#) to explore the link between being in care in South Australia and being caught up in youth justice processes.

The SADI Project is funded from February to December 2021 and focuses on children and young people who are under the guardianship of the Chief Executive of DCP, live in residential care *and* are or have been detained at KTYJC. As such they are within both the Guardian’s and the TCV’s areas of responsibility.

Our goal has been to provide every detainee (or former detainee we meet in the residential care system) with the opportunity – during the project period – to participate in the project, and to get advocacy support for issues concerning them (including those associated with transitions between the child protection and youth justice systems). In addition, we were able to conduct in depth, semi-structured interviews with 16 of the 51 participants.

Through listening carefully, we are seeking to develop a better understanding of –

- the characteristics of this vulnerable cohort
- why they think they are in detention
- the environments in which they live, common issues that arise and their views about these
- the factors and systemic issues that trigger or exacerbate involvement in the youth justice system
- opportunities for systems improvements.

Interviews with the young people quickly drew attention to various issues, including:

- dual involved children and young people feeling that the residential care environment has ‘criminalised’ them
- a lack of preparedness by DCP for the release of dual involved children and young people from KTYJC, resulting in prolonged periods of detention and poor service coordination
- a common experience of detention in adult police facilities, such as the Adelaide City Watch House, where they have been routinely subject to semi-naked searches although these have now been phased out in Kurlana Tapa Youth Justice Centre.

These and other observations by the young people will be more fully discussed in an interim report, [‘Six Months Snapshot of the South Australian Dual Involved Project’](#), to be published in October 2021. It will be available on the OGCYP website. The full SADI Project report is due for release in early 2022.

## 4.6 Investigate

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

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

## 5. Rights and 'best interests' – significant themes and issues

It continues to be true that many of the 4,647 children and young people in out of home care on 30 June 2021 are living in safe, stable and loving family environments. Sincere thanks for this are due to those who work in DCP and numerous other non-government organisations, and the carers - foster, kinship and those in residential care and other specialised placements – who care for these children and young people every day.

In auditing five per cent (ie 231) of children and young people's annual reviews over the last reporting year, we assessed that in 87% (206) of those, the children or young people were living in safe and stable placements, while 13% were living in placements that were either safe and *unstable*, *unsafe* and *unstable* or requiring review with regards to safety and stability.

However, while GCYP supports the State government's three-year strategy for children and young people in care, *Every effort for every child*, there are instances where children are clearly not safe in the care of the state or their needs are not being met. This is 'core business' for GCYP – promoting the rights and best interests of *every* child and young person in a huge and complex system. Sometimes these are one-off matters with a role for individual advocacy. But others point to serious systems failings and require vigorous advocacy to ensure recognition of particular issues and try to achieve change. These larger themes are discussed here.

### 5.1 Residential Care – placement and staffing shortages, and poor matching of residents

Of particular concern to GCYP this year is the critical shortage of suitable residential care properties and staff to work within them, both across the State and especially in regional areas, together with our ongoing concern about inadequate placement matching of residents.

#### *Placement and staffing shortages*

Complex factors are contributing to residential care property and staffing shortages. More and more children are coming into care and there are not enough family-based carers to meet this demand. This necessitates the placement of children and young people into residential care who would have otherwise thrived in a family environment. Add to this the current housing climate in South Australia, with an historically low rate of rental vacancies, and significant challenges associated with recruiting and retaining skilled Youth Workers to staff the properties, and the result is a critical shortage of residential care options for children and young people.

DCP has advised GCYP that they have been taking various steps to manage and deal with this challenging environment including striving to grow family-based care and actively recruiting additional residential care staff, during the reporting year, as well as undertaking continuing, rolling recruitment.

### *Inadequate placement matching*

With regard to inadequate placement matching, in some instances this is undoubtedly a direct result of placement shortages, despite the best efforts of those involved. When there are effectively no vacancies, there is little scope to consider who else is in the property.

In other instances, inadequate matching is a result of poor practice, lack of communication, and inadequate consultation. In 2018, GCYP identified concerns that DCP did not have up-to-date placement matching procedures. In August 2019, in response to these concerns, DCP advised GCYP that work was being undertaken on a matching framework, in line with the development of a practice approach. DCP has since developed a Manual of Practice, incorporating guidance regarding placement principles and key considerations but, as at 30 June 2021, the associated procedural work was yet to be finalised.

### *The consequences – serious safety issues for some children and young people*

The ongoing and growing systemic issue of placement shortages is exacerbating problems with placement matching and, in some cases, compromising safety. Chronic placement shortages have resulted in young people, who are not suitably matched, being placed together for want of alternatives. A complex intermix of residents can create unsafe dynamics and a fraught, unpredictable living environment. This then significantly increases the risk of young people experiencing further trauma and abuse in care, with the risk of physical abuse, sexual abuse and emotional and psychological harm (including intimidation, bullying, verbal taunts and threats) from co-residents.

It is highly troubling to observe that some children and young people in the care of the state are living in 'homes' where they effectively experience 'domestic violence' – ie common but unpredictable incidents of violence or threat, against themselves or others, including property damage and self-harm – executed by the people they live with. It is notable that domestic violence and a parent's inability to keep their child safe in such a situation may well contribute to removing a child from their birth family in the first place. It is also notable that these children and young people are observed to exhibit some of the same effects as children exposed to domestic violence: ongoing anxiety and depression, emotional distress, hypervigilance, eating and sleeping disturbances, low self-esteem, self-harm and disengagement from school. GCYP has observed that when a situation is not able to be resolved in a timely way children and young people also begin to despair that anything can make a difference or keep them safe.

A common recommendation from our audit visits to residential care properties (discussed at [Residential Care Audit Visits – January to June 2021](#) in Part 4.3) was to review the suitability of some young people remaining placed together, in consideration of their care needs, individual complexities and conflictual relationships with each other.

This year GCYP also dealt with a number of advocacy requests where young people in care had no available placement and were, for complex reasons, effectively homeless. GCYP also became aware of a handful of instances where the number of children and young people placed at residential care facilities exceeded the approved number of beds, raising concerns regarding the safety, wellbeing, and privacy of children and young people in those facilities.

We noticed with concern that, as placement shortages and systems pressures mounted throughout the year, DCP's responses to GCYP individual advocacy positions more frequently reflected that the urgent action GCYP was advocating for, such as a placement move, would not, or could not, be implemented. GCYP was frequently informed that no alternative placement options existed in the system and that safety concerns would need to be managed via other strategies; strategies which often resulted in no meaningful change to the children and young people's actual and perceived safety in their placements.

In some instances, GCYP advocacy positions were eventually accepted and acted upon by DCP, but only after our sustained involvement. We are aware that stability for children and young people in non-family-based care is of critical importance so we do not advocate for placement moves lightly. However, in some instances a placement move for one or more residents is absolutely warranted, for safety reasons, and is in the best interests of the children and young people concerned.

When children and young people are clearly voicing that they experience trauma and harm in their placements on a sometimes-daily basis, we must support their voice and require timely and meaningful action.

### *A more therapeutic form of residential care – 'MyPlace' and the Sanctuary model*

In light of the above significant challenges faced by DCP, it is important to acknowledge some of the very good work that has been undertaken in the last year to systematically address some of these issues and to improve young people's experiences of residential care.

The ['MyPlace'](#) program has been highly successful in transforming the living spaces in many of the DCP homes by allowing and empowering residents to participate in the design process and choose the décor, furniture and furnishings that reflect their own preferences, identity and culture. Through respectful consultation and action, residential care environments have become more welcoming and homelike. The reports from young people who have participated in the process have been consistently enthusiastic.

Another significant initiative, first announced in June 2020, is the introduction of the [Sanctuary Model](#) of trauma-informed, therapeutic care to all DCP residential care facilities in South Australia, to be implemented over three years. The model is in use in other Australian states, and internationally, and recognises the impact of trauma experienced by many children and young people living in residential care, and the corresponding impact on carers. Through enhancing skills and knowledge of staff, it trains them to deliver consistent therapeutic support through trauma-informed care.

This is a welcome initiative and GCYP sees the introduction of the Sanctuary Model as having the potential to contribute significantly to more nurturing residential care environments. This would improve both the care experience of some of our most vulnerable children and young people, and the workplace experience of residential care staff, who work in what are sometimes very challenging environments.

However, to ensure enhanced safety and stability for residents, the implementation of Sanctuary must be accompanied by sufficient numbers of trained and supported staff and enough

metropolitan and regional properties to allow for smaller populations in residential care homes, and improved placement matching processes.

## 5.2 Reduction in large Residential Units

Successive Guardians have advocated for the closure of large-scale residential facilities since 2005. In 2020-2021, Advocates continued to receive information about serious issues and concerns associated with these facilities, including harmful sexual behaviour between the residents, assaults and bullying between residents, exposure to drugs and alcohol, sexual exploitation by older people in the community, extended periods of non-attendance at school, restrictive practices and exposure to the justice system.

We have previously reported that in 2018 the government took the welcome step of closing the (12 bed capacity) Queenstown Community Unit and we are pleased to be able to report that a further eight bed facility, to the north of Adelaide, which was the subject of recommendations in the course of the (now finished) Trial Child and Young Person's Visiting Program, has now also been discontinued as a facility for ongoing residential care.

As at 30 June 2021, three large-scale residential units continue to operate in South Australia.

- One is undergoing significant refurbishment, with input from residents under the excellent MyPlace program, to reduce its capacity to six beds, including an independent living wing designed to support two residents to develop independent living skills<sup>8</sup>.
- A twelve-bed facility remains in operation at reduced capacity and is under consideration by DCP for 'repurposing'.
- A third facility remains in use and has been the subject of GCYP advocacy and recommendations. GCYP Advocates conducted a comprehensive audit visit to this facility in February 2021. On the day of the visit, nine young people were residing at the unit, exceeding the capped number of six, by three. The following systems issues were identified in the subsequent audit report: placement capacity; safety and stability; intermix of young people with complex and high needs; high placement turnover impacting on stability and security; staff shortages; vehicle shortages; and disengagement of young people from education.

The audit process highlighted very serious, longstanding issues that are common to large congregate care settings, compounding young people's trauma and compromising their life outcomes. Closure or repurposing of the unit was recommended.

It is GCYP's longstanding position that large residential units are not suitable for children and young people and should be closed.

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<sup>8</sup> (At the time of finalising this report, several months into the new reporting year, it is important to acknowledge that the refurbishment is complete and has transformed the facility into a modern, attractive, functional living space for young people, which they love. GCYP applauds the degree to which DCP involved the residents in the design process.)



## 5.3 Supported Independent Living Services (SILS) recommission

In accordance with the recommendation 167 of the Nyland Child Protection Systems Royal Commission, this year DCP redesigned Supported Independent Living Services (SILS).

New contracts with service providers commenced on 1 July 2021. The intent of the new SILS models is to respond more flexibly and effectively to the needs of young people by providing individualised accommodation and support in preparation for leaving care. GCYP understands that young people in care were consulted during the recommissioning process and that key themes were incorporated into the new model.

In the months leading up to the phasing out of the old model and commencement of the new, GCYP received numerous requests for advocacy from young people and services supporting them, who were concerned about what the recommission meant for their current and future circumstances. The concerns raised with GCYP broadly related to:

- The new model preferencing dual tenancies (young people being placed together) over single tenancies. Young people overwhelmingly voiced to GCYP that they wanted to live on their own and were worried about how the actions and behaviour of another young person might impact them and/or trigger their past experiences of trauma.
- Uncertainty regarding the future of young people's existing SILS placements once the new model commenced. Young people reported feeling anxious and in the dark about whether they would have to move out of their homes and whether they could continue to access support from their existing service provider from 1 July 2021.
- Accommodation and support ceasing on a young person's 18th birthday under the new model (as opposed to routine extensions under the old model), providing little to no safety net in situations where stable, long-term post-care accommodation is not yet available.

GCYP advocated strongly with DCP on behalf of numerous young people affected by the recommission. In most instances, young people's existing placement arrangements were honoured, and where necessary, extended.

It remains to be seen whether the new model will achieve the intended outcomes for young people transitioning from care. In particular, GCYP will keep a watching brief on the dual tenancy concept in the coming year and will monitor that young people are not exited into homelessness at the end of their SILS contracts (where stable, long-term accommodation is not readily available).

## 5.4 Phasing out of commercial care

This year saw the final stages of DCP's ambitious reform to phase out the use of commercial care. This was a necessary reform and had been recommended and supported by GCYP but we had also highlighted that moving children and young people out of commercial care arrangements needed to be managed in a carefully considered way, and in consultation with children and young people, to ensure their needs and best interests were met by the move.



Unfortunately, in the lead up to the October 2020 deadline, GCYP continued to receive concerning reports about children and young people being moved from stable commercial care placements at short notice, with:

- little to no consultation with the child or young person;
- minimal evidence of placement matching and child-focussed transition planning;
- inadequate consultation as to whether the new placement is more suitable and stable, or how it will better meet the child or young person's needs;
- limited consideration of the child or young person's attachment to their existing care team; and
- the inappropriate separation of siblings into different residential care placements.

GCYP raised these concerns with the Minister and Chief Executive of DCP at the time, advocating that decisions be made in the best interests of the children and young people concerned, irrespective of the overall policy goal.

It is unclear to what extent the closure of commercial care has or has not contributed to the current shortage of residential care placements, however GCYP understands that many of children and young people of the children and young people who were transitioned out of commercial care were placed into residential care, further reducing the already low vacancy rate.

## 5.5 Health service gaps

### *Mental Health services*

Access to mental health services is an acknowledged challenge for children and young people throughout Australia.<sup>9</sup>

Children in care are particularly vulnerable to mental ill-health due to the trauma and adversity they have commonly experienced and sometimes continue to experience.

Through enquiries for advocacy, audits of annual reviews, visits to residential care facilities and working with dual involved children and young people (in both care and in Kurlana Tapa Youth Justice Centre), GCYP has noted a significant number of young people who have not been able to receive the mental health care and support they need.

Over some years, GCYP has become aware of instances where particular young people in care have experienced severe mental ill-health, such as active psychosis, accompanied by high-level risky behaviour such as self-harm, aggression and/or severe self-neglect, but there have been considerable doubt about their access to adequate assertive treatment.

There is one inpatient mental health facility for children and young people in South Australia (now called Mallee Ward) at the Women and Children's Hospital. At times children or young people in care have been presented but have not been admitted or have been discharged on the basis that their presentation is 'behavioural' (or related to a disability or substances.) GCYP

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<sup>9</sup> See National Mental Health Commission, [National Children's Mental Health and Wellbeing Strategy](#).

acknowledges that a range of complex factors may contribute to the behaviour of children and young people in care such as disability, trauma, mental illness and substance use. However, GCYP is also aware of young people who have then engaged in ongoing risk-taking and criminal behaviour, and have sometimes ended up on the streets, with personal hygiene, self-care and life's basic needs (food, shelter and clothing) remaining largely unmet, while they continue to exhibit symptoms suggestive of mental illness, such as dissociation, paranoia or responding to stimuli that others cannot see.

During the reporting year, grave concerns for the wellbeing of a mentally ill, dual-involved young person detained in Kurlana Tapa Youth Justice Centre, brought this issue of access to adequate treatment into sharp relief.

This young person's situation highlighted the lack of a forensic mental health inpatient facility in South Australia for children and young people whose offending may be connected with a mental illness. The Training Centre Visitor brought the matter to the attention the Ministers for Human Services, Child Protection and Health and provided her advice that KTYJC is not a therapeutic environment and staff are not trained or qualified to provide treatment for young people experiencing serious mental illness. As such, KTYJC is not capable of providing the support and effective treatment required for a child or young person with a significant mental illness.

More generally, GCYP's annual reviews across the state have indicated a shortage of mental health practitioners for children and young people, particularly psychologists and therapists specialising in trauma-informed care. We understand that eligibility criteria for CAMHS and Headspace have created gaps in service accessibility, particularly for children aged under 12 years. It has also been reported at annual reviews that DCP's Psychological Services are at capacity, with waiting lists in place.

### *Regional inequity in access to health services*

Feedback when attending annual reviews in regional areas has identified access to health services, in particular allied health (occupational therapy, speech therapy and psychological services), as a major issue for children and young people in care. It was reported by carers and case managers that there is a shortage of providers regionally, with high turnover of therapists and long waiting lists. In some instances, this has resulted in an underspend of children's NDIS funds, with funds allocated for therapy and no therapists available to provide the required service.

## 5.6 Access to education

During the year, GCYP received a cluster of advocacy requests regarding children and young people's access to education. Whilst not representing a significant overall number, these requests often highlighted similar concerns, and may point to broader issues affecting a larger cohort of children and young people. Of particular concern were reports of:

- School enrolments being delayed due to:
  - Placement instability (making it difficult to determine school location);
  - Waiting lists for educational assessments (making it difficult to determine the right school and level of support for the child or young person); and

- Occasional unwillingness from schools to accept enrolments for children in care.
- Suspensions and exclusions occurring where trauma-informed approaches were not being utilised in the classroom to manage trauma-related behaviour
- Limited spaces in special education classes resulting in children with complex diagnosed disabilities and/or significant trauma-related behaviour being deemed ineligible and unable to be reassessed for two years.
- Inconsistent findings and opinions across educational assessments, paediatric assessments and the views of professional care team members.
- Inadequate Inclusive Education Support Program (IESP) funding for some children, limiting the school's ability to sustainably provide the support the child needs to successfully engage in education.

GCYP will closely monitor education-related requests for advocacy in the coming year, to better understand the nature and extent of these issues.

## 5.7 Allegations of sexual abuse of children in care – beyond 'Care Concerns'

In response to Recommendation 23 of the Mullighan Inquiry the Guardian's functions were expanded to include acting 'as an advocate... in particular, for any child who has suffered or is alleged to have suffered, sexual abuse'.

Recommendation 23 also provided that: *GCYP is provided with sufficient staff and resources to accomplish [the] function [to act as an advocate for a child or young person in State care who has made a disclosure of sexual abuse.]* This recommendation was not and has not been taken up by any government.

As discussed in Part 4.3 of this report under [Monitoring allegations of sexual abuse children in care](#) GCYP currently fulfils a monitoring function under the R20 process, when allegations give rise to care concerns. However, as previously noted, care concern referrals do not paint a complete picture of *all* allegations of sexual abuse of children and young people in care. Allegations that relate to peer sexual abuse by other young people in care or sexual abuse perpetrated by 'strangers' in the community may not give rise to any concerns about the quality of care the child was receiving and so the Guardian may not be made aware of them.

The federal Royal Commission into Institutional Responses to Child Sexual Abuse (RCIRCSA) heard that sexual abuse of children by adults does not represent *all* child sexual abuse that occurs within institutions<sup>10</sup>. The RCIRCSA used the term 'harmful sexual behaviours' to refer to the full spectrum of sexual behaviour problems in children, including behaviours that compromise and potentially damage the child's own development, as well as those that are coercive, sexually aggressive and predatory towards others.

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<sup>10</sup> Royal Commission into Institutional Responses to Child Sexual Abuse (Final Report, December 2017) vol 10, 9.

Of the 85 Minor, Moderate and Serious Care Concern Referrals received by GCYP in 2020-2021, 34% (29) related to or included allegations of harmful sexual behaviour between children and young people in care. The concerns varied across the spectrum of harmful sexual behaviour - from sexual behaviour considered outside the normal or age-appropriate range (but not necessarily resulting in harm to *another* child), through to sexual offences for which the child could be held criminally responsible (if aged 10 and over).

Although the Mullighan Inquiry also recommended *That it be mandatory for the chief executive of the Department for Families and Communities or Commissioner of Police to notify the Guardian for Children and Young People when a child or young person under the guardianship or in the custody of the Minister makes an allegation of sexual abuse. [Recommendation 24]*, the Guardian is not formally and systematically notified of *all* allegations of sexual abuse of children in care.

This was the case in relation to two serious matters involving young women in care which came to public attention in 2020, and ultimately gave rise to the [Rice Review](#). These matters had not been formally notified to the Guardian because they involved abuse by 'strangers', not carers, and, as such, the R20 process was not relevant (and the R24 process is not in operation).

In regard to peer-related sexual abuse in non-family-based care, from time to time GCYP has become aware of cases where children and young people have been harmed in circumstances that point to serious gaps in resident matching procedures, risk identification and risk mitigation. These gaps have been brought to the attention of DCP and the Minister.

Due to information from various sources, including individual advocacy enquiries, GCYP has had, and continues to have, serious concerns about the *prevalence* of harmful sexual behaviour between children and young people in care, and the targeted sexual exploitation of children and young people in care by adults in the community. However, it is difficult to understand the scale of the problem or what can be done to prevent it without complete information.

GCYP currently has limited capacity to provide the level of individual advocacy for children who have been sexually abused that was foreseen by the Mullighan Inquiry, or to undertake more detailed monitoring and analysis of the occurrence of harmful sexual behaviour between children in care, and the targeted sexual exploitation of children in care by adults in the community. However, there is very clearly a need for this important work to be facilitated.

## 6. Office of the Guardian – administration and governance

### 6.1 Legislation

The role of Guardian for Children and Young People was originally established in an amendment to the *Children's Protection Act 1993*, which came into effect on 1 February 2006. Later amendments strengthened the independence and powers of the role, particularly in response to recommendations made as a result of the Mullighan Inquiry.<sup>11</sup>

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

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

### 6.2 Governance

Under the Act, the GCYP is appointed by the Governor and has statutory functions and reporting requirements as previously discussed in this report.

The Guardian's independence is established by section 21(2) of the Act, and is not subject to direction or control by the Crown or any Minister of officer of the Crown including any which may inhibit inquiries or investigations, prevent or restrict communications or which limit the content of advice, reports or recommendations made in fulfilling her statutory functions.

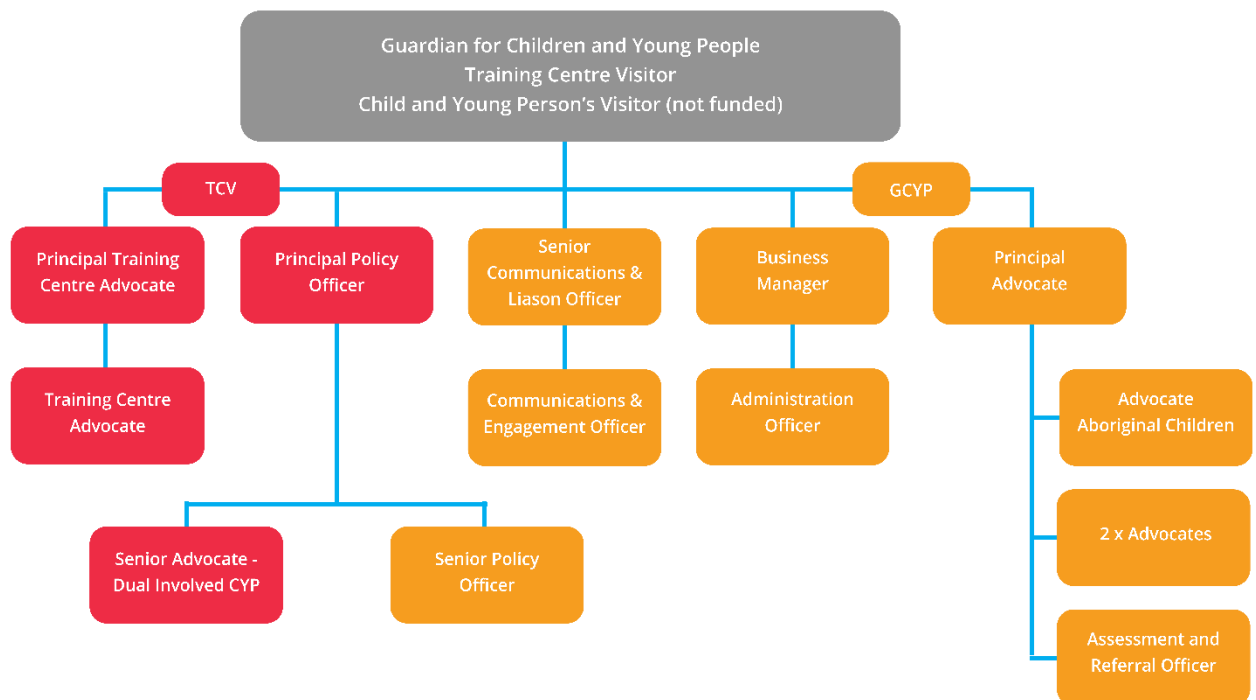
The Guardian has powers necessary, expedient or incidental to the performance of her functions, including the power to require information from organisations and people necessary to fulfil her functions. (s.26(3) of the Act)

The GCYP must establish and maintain processes to ensure the participation of children and young people in strategic, policy or systemic practice development or review processes. (s.27 of the Act)

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<sup>11</sup> E Mullighan, Children in State Care Commission of Inquiry Final Report (2008)

## 6.3 Organisational structure



**OFFICE OF THE GUARDIAN FOR CHILDREN AND YOUNG PEOPLE**  
**ORGANISATIONAL CHART**  
June 2021

## 6.4 Work health and safety

There were no work health and safety claims during 2020-2021

## 6.5 Complaints

There was one formal complaint made to the Office of the Guardian in 2020-2021 regarding GCYP policy in relation to advocacy. The Guardian met with the Complainant to explain the processes undertaken in the office and also advised the Complainant of their right to approach the SA Ombudsman if not satisfied. The complaint was resolved.

## 6.6 Freedom of information

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

There was no FOI request for other information during 2020-2021.

## 7. Financial

Financial services are provided by the Department for Education. The financial operations of the Office of the Guardian are consolidated into and audited through the Department for Education. Budget for the Training Centre Visitor program is also provided below.

### Project 996: Guardian for Children and Young People

Financial Summary of expenditure 2020-2021 ('000)

Item	Budget	Actual	Variation
Salaries and wages	1,204	1,226	22
Grants, goods and services	315	336	21
<b>Total</b>	<b>1,519</b>	<b>1,562</b>	<b>43</b>

### Project 973: Training Centre Visitor

Financial Summary of expenditure 2020-2021 ('000)

Item	Budget	Actual	Variation
Salaries and wages	356	367	11
Grants, goods and services	47	37	10
<b>Total</b>	<b>403</b>	<b>404</b>	<b>1</b>
Revenue	403	403	0
<b>Net</b>	<b>0</b>	<b>1</b>	<b>1</b>

### Executive employment in the agency

Executive classification	Number of executives
SAES1	1



## Contractors disclosure

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

### Contractors with a contract value below \$10,000

Contractors	Purpose	\$ Actual payment
BJ Lorek Consulting	TCV Practice supervision	2,500
Michael Savvas	Editing/proofreading TCV Inspection report	3,600
Megan Kerr Photography	Photography	525
Kate Potter	GCYP & TCV graphic design	810
Gabriel Cunnett Illustration	Charter of Rights review	1,310
David Booth	Artist for Nunga Oog	3,900
Youth Participation	Projects & recruitment	1,175

### Contractors with a contract value over \$10,000

Contractors	Purpose	\$ Actual payment
Madeleine Karutz	Illustrator & animator for Charter of Rights materials	20,000
Project 18 Pty Ltd	Charter review engagement & visits to KTYJC	14,413
Hannan & Partners Pty Ltd	Strategic advisory services	16,053

# Appendix A

## Number of Annual Reviews Audited

No	DCP Office	ATSI	ATSI to be Confirmed*	CALD	Other Australian	Total
1	Ceduna	-	-	-	-	-
2	Coober Pedy/APY Lands	3	-	-	-	3
3	Elizabeth	4	3	-	6	13
4	Gawler	12	-	2	6	20
5	Hindmarsh	-	-	-	-	-
6	Inner South	8	-	-	2	10
7	Kadina	6	-	-	13	19
8	Limestone Coast	8	-	-	17	25
9	Mount Barker	9	-	-	-	9
10	Murraylands	3	-	1	7	11
11	Noarlunga	6	-	-	11	17
12	Port Augusta	5	-	-	2	7
13	Port Lincoln	-	-	-	-	-
14	Port Pirie	18	-	-	9	26
15	Playford	5	-	-	8	13
16	Riverland	3	-	1	7	11
17	Salisbury	-	-	1	-	1
18	St Marys	11	3	3	11	28
19	Whyalla	9	-	1	8	18
Total		110 (48%)	6* (2%)	9 (4%)	106 (46%)	231

**NB: \*'ATSI to be Confirmed'** refers to children and young people where Aboriginality has not yet been confirmed; however, they have been identified as possibly being Aboriginal. In instances where these children and young people have been recorded as Aboriginal on their case plans, they have been included in the data particular to Aboriginal young people, such as ACISTs being developed and the Aboriginal Child Placement Principles followed in determining placement.

## Appendix B

Wellbeing Statement and Percentage of Children and Young People for whom the statement is assessed as 'Met' from their Annual Review Audit (n:461)

		2019-2020	2020-2021	Increase/ Decrease
1	This child lives in a kind and nurturing environment	94.5%	92%	Decrease 2.5%
2a	This child is, and feels, physically and emotionally	93%	88%	Decrease 5%
2b	This child is, and feels, culturally safe ( <i>new statement added for 2019-20</i> )	89%	83%	Decrease 6%
3	This child is treated with respect, by workers and carers	98%	99%	Increase 1%
4	This child is receiving appropriate shelter, clothing and nourishment	98%	99%	Increase 1%
5	This child is cared for in a placement that is stable and secure	92%	87%	Decrease 5%
6	This child has a secure personal space to which she/he can withdraw and where personal things are kept safe	88%	93%	Increase 5%
7a	This child has contact with family and/or other significant people who provide a sense of identity and belonging	82%	73%	Decrease 9%
7b	ATSI/CALD only: This child has contact with their culture and community ( <i>new statement added for 2019-20</i> )	56%	48%	Increase 8%
8a	This child has access to health services that meet their needs	96%	95%	Decrease 1%
8b	This child has access to disability services that meet their needs ( <i>new statement added for 2019-20</i> )	82%	80%	Increase 2%
9a	This child is getting an education suited to their needs	90%	89%	Decrease 1%
9b	This child has the opportunity for artistic, cultural, spiritual, recreational and/or sporting development	90%	97%	Increase 7%
10	This child understands to the full extent of their capacity their life history and why they are in their current circumstances	86%	85%	Decrease 1%
11	This child has knowledge of and participates in decisions that affect them	94%	92%	Decrease 2%
12a	This child has regular contact with the same case worker	77%	77%	Even
12b	This child's case worker is skilled, knowledgeable, and respectful	95%	95%	Even
12c	This child's case worker advocates energetically in the child's best interests	32%	46%	Increase 14%



**Guardian**  
for Children and  
Young People