



**2021-2022**

# ANNUAL REPORT

Guardian for Children and Young People

PREPARED BY    Office of the Guardian for  
Children and Young People

**The Office of the Guardian for Children and Young People respectfully acknowledges and celebrates the Traditional Owners of the lands throughout South Australia and pays its respects to their Elders, children and young people of past, present and future generations.**



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Suggested citation

Guardian for Children and Young People. Annual Report 2021–22. Office of the Guardian for Children and Young People, Adelaide 2022.

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31 October 2022

The Hon. Katrine Hildyard, 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 2022, 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 2021-2022 financial year.

With kind regards

A handwritten signature in black ink, consisting of a large, stylized 'S' followed by a horizontal line.

**Shona Reid**  
**Guardian for Children and Young People**

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# NOTES

## 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.

## Language

Reflecting community preference, the term 'Aboriginal' is used in this report to refer to both Aboriginal and Torres Strait Islander people.

## 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. 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.

## 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.

## 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

Much of the data presented in this report has been provided by the Department for Child Protection. It is presented in good faith, acknowledging there may be unintentional discrepancies.

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

My tenure as the Guardian for Children and Young People in South Australia commenced in August 2022, making it a bit of a challenge to bring together an Annual Report for the period preceding that commencement.

For this reason, I am very fortunate to work alongside an office of talented and committed staff who brought me up to speed about the office's prior work and the contribution of my predecessor, Ms Penny Wright. I am grateful for your work, Penny, as Guardian since 2017. Your diligence, commitment, and relentless drive in defending the rights and best interests of all young South Australians living in state care is inspirational. I hope to continue this determined approach during my tenure.

As with previous years, South Australia saw an increase in the number of children and young people in out-of-home care (4,646 in June 2021, to 4,738 in June 2022). This increase was reflective of the demands on our office, with a notable growth in requests for assistance for advocacy on both individual and systemic matters. It is worth noting, one-third of advocacy requests came directly from children and young people themselves.

This demand is a trend that keeps escalating, with a 294% increase in 'in-mandate' enquiries over the past 10 years (with no commensurate increase in funds). Simply put, many more children and young people in out-of-home-care are asking for our help to make their time in care better, to make their time in care less confusing, and to make their time in care safer.

Our work in auditing and connecting with care teams across South Australia has provided wonderful insight into case planning and outcomes for children and young people in family-based care (see part 4.3 of the report). I thank the Department for Child Protection in supporting our involvement in these audits and assisting our office to engage at a deeper level in your work with children and young people under your care.

I see the committed work of many from the families who care for children, to the staff in DCP who work tirelessly for the children under their care. I also see this within my own office,

every day, as we tackle and navigate the child protection system. As overwhelming as it can be for us, I am cognisant of how huge and convoluted it must be for children and young people who live within it each day. This is why our work must have an influence beyond single advocacy matters or moments in time.

Our office continued its work in developing new resources, such as booklets, posters, and an animated video to promote the revised Charter of Rights. We 'soft' launched 'Nunga Oog', a culturally relevant GCYP safety symbol for Aboriginal children and young people in care. Nunga Oog was developed with Aboriginal children and young people's input, reflecting our determination to create greater awareness of and accountability for services provided to children with specific cultural needs and rights.

During this reporting period we finalised the South Australian Dual Involved Project, that inquired into, and learned more about the experiences, circumstances and needs young people who were both in care and have been detained in Kurlana Tapa Youth Justice Centre (KTYJC). We look forward to the Government's response to this report in the new year.

Just prior to my appointment, our office launched its new 2022-2025 Strategic Plan. This will now progress and evolve as I bring my own unique approach to this work.

Finally, I am incredibly grateful to all those supporting the work of this office: the skilled, talented and dedicated staff, and the smart, insightful and brave young people. I am thankful for the trust and belief many have placed in this office, by sharing their most personal details and worries with us.

I provide this report not only to account formally for our work over 2021-22, but also with the goal of sharpening our focus and attention on vulnerable children and young people in out-of-home care in South Australia.



## 2. WHO WE ARE & WHAT WE DO

### 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.

NB: Please see note about the Child and Young Person's Visitor role below.

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) is established by the *Children and Young People (Oversight and Advocacy Bodies) Act 2016* (the Act), to promote the rights of 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 was for the period 10 July 2017 to 31 July 2022. She was 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 2021-2022, she held two further roles, which overlapped with, and complemented, the Guardian's functions: Training Centre Visitor (TCV) and Child and Young Person's Visitor (CYPV). Penny resigned from the

role of CYPV on the 23 August 2021 as no funds were attached to this legislative function.

As from 1 August 2022, Shona Reid was appointed to the roles of GCYP, TCV and CYPV for a five-year period. Funding for the CYPV role was reinstated in the 2022 state budget.

#### *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 held the position for the period 11 July 2017 to 31 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 no funds were attached to this legislative function, Ms Wright resigned from her position on 23 August 2021. The 2022 state budget allocated funding for the CYPV legislative function, which will be reported on in the 2022/2023 CYPV Annual Report.



## 2.2 Rights, Vision, Values

### Rights

All children have fundamental rights. Children and young people in care, and in youth detention, have particular rights. This includes: 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 the 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 Purpose

We exist to champion the rights and best interests of children and young people in care and detention, ensuring their voices are heard and they are empowered to engage with, challenge and influence change in the systems that affect their lives.

### Our Vision

A safer, more inclusive society for children and young people in care and detention, that honours their voices and respects their rights.

### Our Values

In our thoughts, interactions and actions we will be guided by the following:

### COMMITMENT – This means we:

- are caring and tenacious in our advocacy for children and young people
- place the best interests of children and young people at the very centre of our work
- ensure that our work is always informed by the voice of children and young people and encourage others to take the same approach

### RESPECT – This means we:

- create safe and trustworthy spaces for children and young people to be heard
- listen carefully and respect their voices as experts in their own lives
- respect the unique perspectives and cultures of Aboriginal and Torres Strait Islander people and continue to grow our understanding of our shared history
- take active steps towards true reconciliation and consider how to achieve cultural safety in everything we do
- embrace diversity and listen with curiosity to alternative perspectives
- remain respectful of our colleagues and the challenges they face working in the system

### COURAGE – This means we:

- take strength from the responsibility, independence and reach of our office
- notice and name system failures without fear or favour
- act ethically and decisively and seek timely action and accountability from others
- remain optimistic that we can influence change for children and young people



### 3. CHILDREN & YOUNG PEOPLE WE WORK FOR

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.

A child or young person may come under the guardianship or custody of the Chief Executive in the following ways:

- the parents or guardians of a child or young person have entered into a voluntary custody agreement with DCP
- DCP have removed the child or young person from the care of another person, on the grounds that they are believed to be at risk of harm, or
- the Youth Court has made an order formally granting the guardianship or custody of the child or young person to the Chief Executive

Where a child or young person has been removed by DCP, they may be temporarily placed in out-of-home care (OOHC), while DCP make an application to the Youth Court.

The Youth Court may make an order on an interim basis, while awaiting a hearing. At the end of the hearing, the Youth Court may place the young person under the guardianship or custody of DCP for a period of less than 12 months, or until they reach the age of 18.

This report utilises two datasets provided by DCP, regarding children and young people on 'Care and Protection' orders, and those in OOHC, at the end of the 2021/2022 financial year.

In this section, 'Care and Protection' orders refer to formal orders made by the Youth

Court, granting guardianship to the Chief Executive for up to 12 months, or until the child or young person turns 18.

Children in OOHC also includes those who have been removed from the care of a person by DCP before the case is heard in the Youth Court, as well as children and young people under an interim order made by the Youth Court.

#### Care and Protection Orders

As at 30 June 2022, there were 4,552 children and young people in South Australia on Care and Protection Orders, for Guardianship to 12 months and to 18 Years.

They had the following characteristics:

Figure 1: CYP on Care & Protection Guardianship to 12 month and 18 years orders at 30 June 2022 (n = 4,552)

Children & Young People	Percentage
Male	52.3%
Female	47.6%
Indeterminate sex <sup>1</sup>	0.1%
Aboriginal and/or Torres Strait Islander <sup>2</sup>	38.2%
Guardianship to 12 months	10.9%
Guardianship to 18 years	89.1%

The dataset did not include information about children and young people in care with disabilities. DCP has previously advised that there are impediments to publishing data about disability, due to limited datasets available and difficulties in retrieving data

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

<sup>2</sup> There were 3 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 1,741 Aboriginal and/or Torres Strait Islander children and young people on Care & Protection Guardianship to 12 month and 18 years orders at 30 June 2022, and are classified as neither Aboriginal nor Torres Strait Islander.

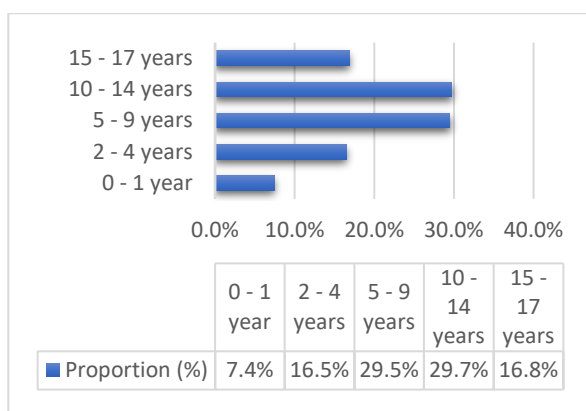
about disability type and placement from existing software.

However, DCP have advised that over 1,200 children and young people in care have a NDIS plan, 38% of whom are Aboriginal. As not all children and young people with a disability are eligible for the NDIS, it is likely that the total number of children and young people in care with a disability is higher than this number.

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](#).

Consistent with the previous reporting period, the majority of children and young people on Care and Protection orders (59.2%) were aged between 5 – 14 years. Figure 2 shows a more detailed breakdown of the ages of children and young people.

Figure 2: Age of children and young people on Care & Protection Orders (Guardianship to 12 month and 18 years orders) at 30 June 2022 (n = 4,552)



There was a small increase in the proportion of Aboriginal children and young people on Care and Protection Orders compared to 2020-2021 (by 0.4 percentage points) from the previous reporting period.

At 30 June 2022, 38.2% of children and young people on Care and Protection orders were Aboriginal. This overrepresentation was significantly higher for a number of DCP offices, particularly in regional and remote

areas. Figure 3 demonstrates the DCP offices with a proportion higher than this average.

Figure 3: Proportion of Aboriginal children and young people on Care & Protection Orders at 30 June 2022 by DCP office

DCP office	Percentage
Far North	98.2%
Ceduna	92.6%
Port Augusta	71.1%
Port Lincoln	61.8%
Woodville	56.5%
Kadina	45.3%
Whyalla	41.2%

### Out-of-home care

Between 30 June 2021 and 30 June 2022, there was a 2.0% increase in the number of children and young people in OOHC (an increase from 4,646 individuals in 2021, to 4,738 in 2022).

On 30 June 2022, there were 709 children and young people living in non-family-based care, comprising 649 in residential care, and 60 in independent living (see Figure 4).

262 children and young people in non-family-based care were Aboriginal, a 2.4 percentage point increase from the previous reporting period (34.6% to 37.0%).

Compared to 2020-21, there was an increase in the rate of children and young people living in: residential care<sup>3</sup> (by 0.9 percentage points) and kinship care (by 2.8 percentage points).

Figure 4: Proportion of children and young people in out-of-home care as at 30 June 2022 by placement type (n: 4,738)

Placement type	Percentage
Foster Care	35.2%
Kinship Care	37.5%
Residential Care	13.7%
Temporary Care	6.2%
Specific Child Only Care	5.3%
Independent Living	1.3%
Family Day Care	0.7%

<sup>3</sup> Including independent living.

## 4. WHAT WE DID IN 2021-2022

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 in 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
- 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

### Promoting the participation of young people

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).

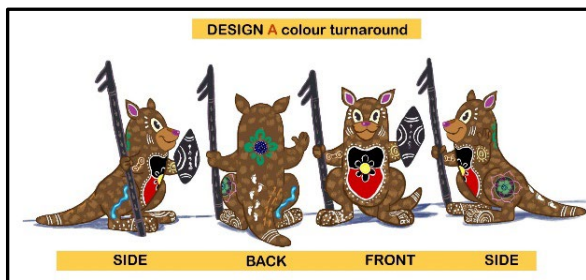
### The Nunga Oog project



Our current 'Oog' (Office of the Guardian) character was developed quite some years ago and is a much-loved symbol of safety for children in care. Given the over-representation of Aboriginal children and young people in the child protection system, we became aware that Oog needed a cousin. The Nunga Oog project began in 2020, with the aim of creating a character, with, and for, Aboriginal children and young people in care.

In 2021-22, we continued work on this project through art workshops in regional South Australia. With assistance from various Aboriginal artists – with a special mention to David Booth and illustrator Madeleine Karutz – the final design of Nunga Oog was launched in June 2022. Nunga Oog has since featured in GCYP's communication and promotional materials.

Across the entirety of the project, we facilitated eight workshops, across the Adelaide metropolitan area, as well as regional workshops in Murray Bridge, the Riverland, Port Pirie and Port Lincoln. 31 children and young people participated in these sessions.



We worked with several offices from the Department for Child Protection, service providers, Aboriginal community members, and local Aboriginal artists who led the workshops, providing workshop participants the opportunity to learn some new art skills, whilst contributing to the design of Nunga Oog.

Earlier this year, we began working with soft toy manufacturer, Korimco, to develop a Nunga Oog plush toy and expect delivery in late 2022. A sample of the Nunga Oog plush toy was displayed at the Aboriginal Family and Support Services' Aboriginal Children's Day in July 2022 and received great enthusiasm from children and adults alike.

We are also working alongside Oddbods, a custom-made mascot company, to have Nunga Oog transformed into a human-sized mascot, meaning Nunga Oog will be out in the community visiting children and young people.

We plan to officially launch Nunga Oog in early 2023, with workshop participants and service providers to be invited to this special event.

*"There has been nothing more powerful than hearing directly from children and young people about what their safety symbol should look like."*

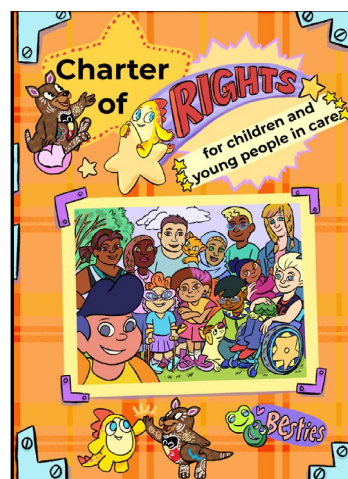
*Advocate Conrad Morris*

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

As part of the five yearly review of the Charter, required by s.13(2)(a) of the *Children and Young People (Safety) Act 2017*, we 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 then Minister for Child Protection in February 2021.

Since then, we worked 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 were launched in October 2021.

We also held a number of workshops with children and young people in care to create animated videos of the Charter (including the children and young people providing voiceovers to the videos). The videos are expected to be launched late 2022.



### Staff Recruitment

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 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.

There was one young person who was part of the panel for the two positions filled during the reporting year.

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

#### Presentations:

- DCP social work students – The functions of GCYP – Merike Mannik, Principal Advocate (27 October 2021 and 25 May 2022)
- DCP social work students – The functions of GCYP – Courtney Mostert, Assessment



& Referral Officer (2 November 2021 and 17 May 2022)

- TAFE SA Cert IV Youth Work students – The functions of GCYP – Courtney Mostert, Assessment & Referral Officer (7 December 2021)
- Information Session regarding GCYP, facilitated by Connecting Foster and Kinship Carers – Penny Wright, Guardian, and Courtney Mostert, Assessment & Referral Officer (12 July 2021)

#### **Represented GCYP:**

- Problem Sexual Behaviour (PSB) Workshops for the development of a framework to help inform an education inclusive, multi-agency response to PBS in Australia – hosted by SA Commissioner for Children and Young People and led by the Australian Centre for Child Protection – Courtney Mostert, Assessment & Referral Officer (05 November 2021 & 19 November 2021), Penny Wright, Guardian (19 November 2021)
- Transition from Care Stakeholder Group – Courtney Mostert, Assessment & Referral Officer (ongoing)
- CYP Engagement Working Group – Joel Georgeson, Advocate (ongoing)

#### **Events attended:**

- Connecting Foster & Kinship Carers Funtopia Event (28 April 2021).

#### **Professional development:**

- CREATE Voices in Action Conference attended (virtually) by Advocate Joel Georgeson (26-29 April 2022)
- Merit-based selection training completed by Advocate Joel Georgeson (6 June 2022)
- Power to Kids Workforce Training, completed by all members of the Advocacy team (June 2022)
- Reframe (FAS-D) training, attended by Advocates Conrad Morris and Joel Georgeson (24 June 2022)

#### **Inquiries attended:**

- Guardian Penny Wright participated in an interview with the Commission of Inquiry into the Tasmanian Government's

Responses to Child Sexual Abuse in Institutional Settings (6 May 2022), provided a witness statement, and gave evidence before the Commission (16 June 2021)

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

We published 44 blog posts on our [website](#).

We appeared 14 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:

- [Guidelines on the Legal Representation of Children in the Youth Court \(Care and Protection\) Jurisdiction](#) – May 2022

## 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 2021-2022

In 2021-2022, GCYP received 483 enquiries, of which 441 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.

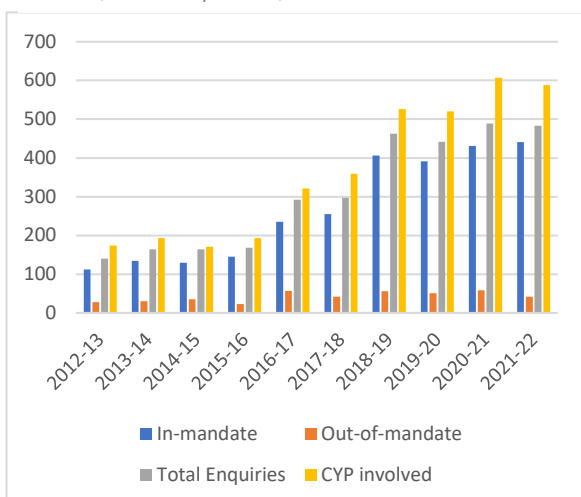
This represents a **2% increase** compared to the 431 in-mandate enquiries of the previous year (2020-2021).

The remaining 42 enquiries were 'out of mandate' (i.e., did not relate to children and young people in state care) and, where appropriate, were referred to other agencies. This represents a 28% decrease in the number of out-of-mandate enquiries compared to 2020-2021.

### Increasing numbers of enquiries received by GCYP over time

GCYP has seen a **245% increase** in total enquiries over the past 10 years, and an even greater, **294% increase in 'in-mandate' enquiries** (see Figure 5).

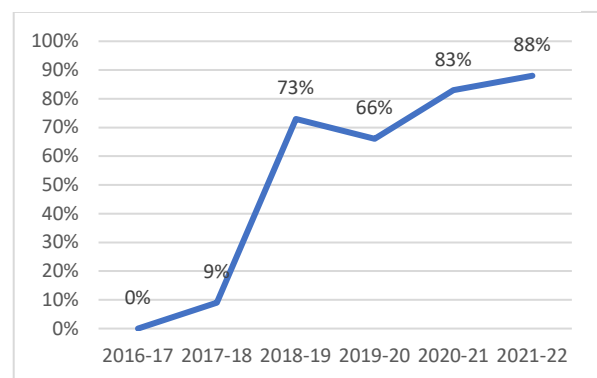
Figure 5: Increasing numbers of enquiries received by GCYP (2012-13 - present)



As some enquiries relate to more than one child, there has been a **238% increase** in the number of children and young people to whom enquiries relate, over the same time period.

Despite the growing demand for advocacy from this office, the 245% increase in total enquiries has only seen an actual increase in staff of one full-time position in January 2017. Since this time there has been an 88% increase in 'in-mandate' enquiries (see Figure 6).

Figure 6: Overall percentage increase in in-mandate enquiries (since last staffing increase in the Advocacy Team in 2016-17)



The growing demand on this office for individual advocacy, and the requirement for systemic advocacy, accountability and oversight requires government and Parliament to re-evaluate the contemporary needs and funding allocations to this office to fulfill its legislative requirements and expectations.

It is the intention of this office to seek funding in the 2022-23 financial year, to respond to the increase in support and advocacy sought from this office and enable OGYP to meet its legislative responsibilities.

### Enquiry types

Of the in-mandate enquiries received, 336 (76%) were requests for advocacy and 43 (10%) were consultations about other action that could be taken regarding a child's (or a group of children's) circumstances.

The remainder (14%) primarily related to:

- complaints (which were re-directed)

- actions arising from GCYP's Annual Review Audits or the R20 Arrangement (under the monitoring function)
- 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 441 in-mandate inquiries received by GCYP were about the circumstances of 588 children and young people, in total (a decrease of 3% from the previous year), and related to 434 individuals.

Thirty per cent of children and young people (177) were identified as Aboriginal or Torres Strait Islander. Two per cent of children and young people (13) were identified as Culturally and Linguistically Diverse (CALD).

From the total number of in-mandate enquiries received by GCYP in 2021-22, 19% of children and young people (112) were reported by the enquirer to have known disabilities. The highest prevalence was autism spectrum disorder, intellectual disability, and attention deficit hyperactivity disorder.

### **Enquiry pathways**

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

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

- 274 (62%) were deemed 'in-mandate' and were either referred to an Advocate, retained by the Assessment and Referral Officer or Principal Advocate, for further assessment, monitoring and/or advocacy
- 82 (19%) were outside GCYP responsibilities for intervention and were referred to other services
- 43 (10%) were assessed as requiring no action by GCYP unless and until direct contact was received from the young person

- 26 (6%) 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, 158 children and young people in care self-referred to GCYP, initiating a total of 36% of enquiries (1% decrease from last year). The other most common referral sources were:

- birth parents and other relatives – 88 (20%)
- DCP and out-of-home care agency staff – 69 (16%)
- foster and kinship carers – 36 (8%)
- internal referrals from other programs and functions within GCYP – 28 (6%)
- other non-government organisations – 23 (5%)
- other government departments/agencies – 13 (3%)

Children and young people living in non-family-based care (residential care) made up the highest number of our enquirers. While they make up 13.7% of the care population, they constituted 78% of the enquiries received from children and young people during the year (compared to 58% last year).

Similarly, young people living in independent living arrangements constitute only 1.3% of the care population but initiated 4% of enquiries (compared to 12% last year).

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 9% (compared to 14% last year).



Figures 7 and 8 demonstrates the proportion of children and young people who contacted OGCYP directly, by their placement type.

Figure 7: Direct contact from children and young people by placement type

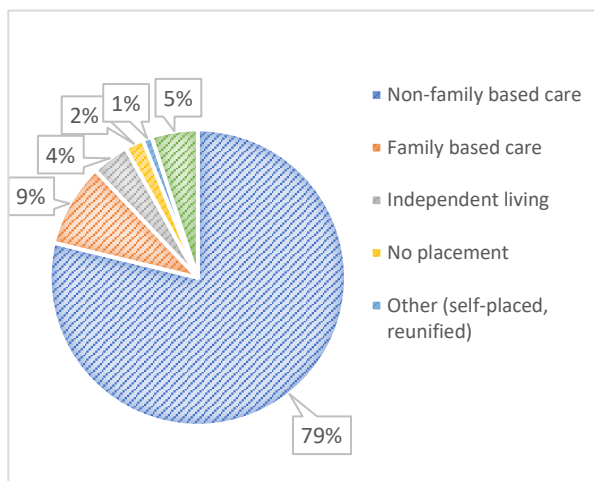
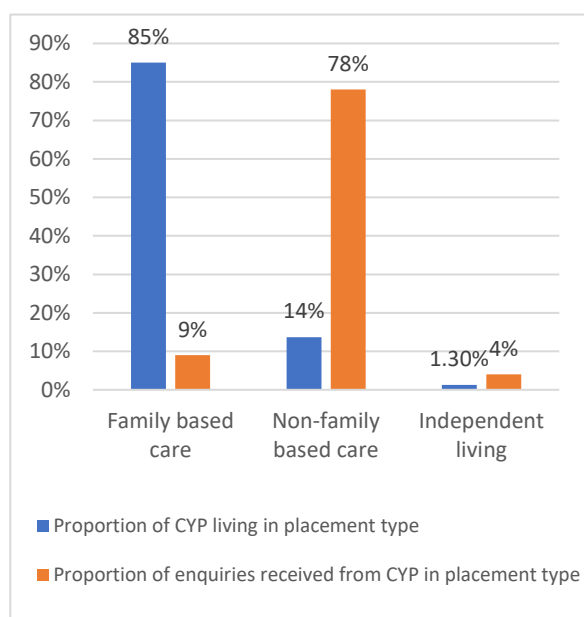


Figure 8: Proportion of children and young people who directly initiated enquiries, compared to the proportion of children and young people in care, by placement type



### Presenting issues – all enquiries

Across all enquiries, from both children and adults, the most common presenting issues<sup>4</sup> were:

1. Safe and stable placement (34%)
2. Contact with significant others (30%)
3. Participation in decision-making (18%)
4. Case management and service coordination (11%)

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

1. Safe and stable placement (46%)
2. Contact with significant others (31%)
3. Participation in decision-making (25%)
4. Relationship with carers (12%)
5. Case management and service coordination' closely followed, (representing 9%)

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

Of the 177 enquiries relating to Aboriginal children and young people, the most prevalent issues were:

#### Placement

More than half of enquiries relating to Aboriginal children and young people were regarding placement issues. Most issues related to safety and stability. Other themes corresponded to relationships between young people and their carers, inappropriate care, not living in a nurturing environment, and access to personal space and privacy. Sixty four per cent of the Aboriginal children and young people experiencing placement issues were residing in residential care.

#### Contact and cultural connections

The equal 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.

<sup>4</sup> Excluding 'unknown' presenting issues and presenting issues categorised as 'other'. Up to 3 presenting issues are recorded for each enquiry, therefore percentages may total more than 100.

## Participation in decision-making

The third most common issue was participation in decision-making, which was often paired with placement issues, contact with significant others, education and understanding circumstances.

## 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.

## GCYP Roles

Over the last four years GCYP 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.



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



### 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 Executive 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.



### 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 Executive for consideration.

### 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.

### 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.

### 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.

### 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 acted as an independent observer for 1 young person (17-year-old 'Sandy') during the 2021-2022 financial year.



## Case Studies

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.

### Level 1 Advocacy - Direct

#### **'Simon' – Placement Safety**

*Sixteen-year-old Simon contacted GCYP, requesting support to move from his residential care placement due to repeated verbal and physical assaults by his co-residents. Simon recounted that, while his carers tried their best to keep him safe, the assaults kept happening and he wanted to feel safe.*

*Upon the Advocate's involvement and raising the concerns on behalf of Simon, he was moved into his own independent living property and supported to develop his independent living skills.*



#### **'Lisa' - Long remand period and placement request**

*GCYP received a referral for Lisa, a 15-year-old Aboriginal young person, regarding her lengthy period on remand at Kurlana Tapa Youth Justice Centre (KTYJC), despite this admission being her first. The Advocate commenced an assessment to gain an understanding of Lisa's situation.*

*The information provided to the Advocate acknowledged the decision to place Lisa on remand for a lengthy period was outside the control of the DCP. Adding further complexities, Lisa didn't agree with the case direction to place her with a family member located away from her supports. Given this information, the Advocate decided to meet with Lisa to gain her voice on placement arrangements outside of KTYJC.*

*Lisa reported her desire not to be placed in a location away from her supports, requesting she be released to her family home where she felt she had supports in place. Upon obtaining the direct voice of Lisa, the Advocate put forward a position that advocated for Lisa to remain in her family home or be placed in an alternate placement near her supports. The Advocate presented Lisa's voice and related concerns as a rationale to change the case direction. The advocacy position resulted in the case direction being changed, in line with Lisa's voice and direct request to be released to a placement that is familiar and safe, with ready access to support.*

#### **'Darryl' – Reunification**

*14-year-old Darryl was residing in a residential care placement, with two other young people, while DCP was working with his father and other agencies to address their child protection concerns. After multiple conversations with Darryl, DCP, and the other agencies involved, the Advocate assessed that it was in Darryl's best interest to be returned to the care of his father. The Advocate then organised consultations with the key stakeholders and was able to successfully advocate for Darryl to be returned to his father's care.*

## Level 1 Advocacy – Best Interest



### **'Summer' – Access to timely health care**

GCYP received a request for advocacy on behalf of 2-year-old Summer, who was residing in a family-based placement. Summer has complex medical and disability needs and had been referred for semi-urgent surgery under the public system due to being constantly unwell and in significant pain. Summer was expected to have surgery within 90 days but was sadly still waiting several months later. During that time, Summer continued to suffer with persistent illnesses, which impacted her ability to engage with her allied health and disability supports and compounded her developmental delays. OGCYP advocated with DCP case management, at the local level, for Summer to be seen under the private system. This was approved by DCP and Summer had a successful surgery just a few weeks later.

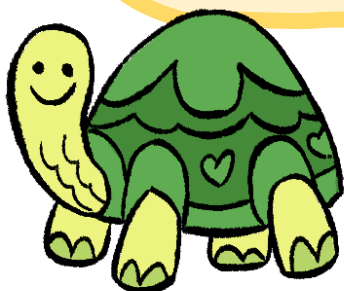
## Level 2 Advocacy – Direct

### **'Sean' – Sibling Contact**

Eleven-year-old Sean was living in a residential care placement, separate from his three siblings (all of whom were residing in separate placements across the state, managed by different offices).

When Sean phoned GCYP it had been over 12 months since he had seen his youngest sister and he felt like DCP had "ripped my family apart". GCYP advocated with the multiple different offices for a face-to-face contact to be prioritised for the siblings, however, this did not occur due to the youngest sibling being unsettled at her placement. GCYP then requested a 'no-contact determination' be issued so we could assist the young person to access the Contact Arrangements and Review Panel (CARP) to have the decision reviewed.

The young person was assisted by GCYP to access CARP, with the review affirming the no contact decision. GCYP noted several concerns with the process and decision, which were raised with DCP Executive through a formal advocacy position, and the decision was subsequently made to reintroduce sibling contact for the young people, which has now occurred.





## Level 2 Advocacy – Best Interest

### **'Jason' – Placement safety and harmful sexual behaviour**

GCYP received concerning information regarding the safety of three young people who were residing in a residential care placement with a non-government service provider. 11-year-old Jessica and 8-year-old Harry had been living in the house for over a year when 15-year-old Jason moved into the placement.

Due to Jason's own trauma experiences, he frequently engaged in extremely high-risk behaviour, including running away from placement, unsafe use of technology, and threatening and intimidating Jessica and Harry. Jason began involving Jessica and Harry in these behaviours, which placed all the young people at significant risk of harm, including exposure to sexual abuse and exploitation. At the time of GCYP's assessment, DCP and the non-government service provider were exploring a potential placement moved for Jason. Advocacy from GCYP in support of this case direction resulted in Jason moving to a new placement with his own care team. Jessica and Harry reported feeling much safer and more comfortable at the house after Jason moved to his new placement.



## Monitoring - Direct

### **'Aaron' – Safety and stability in care**

GCYP was contacted by 12-year-old Aaron, who was living in residential care. Aaron spoke about feeling unsafe around his carers and other residents in his placement, wanting to see his father and siblings more often, and feeling like his allocated DCP worker doesn't care about him. Aaron also raised that he wanted to have a greater voice in Youth Court proceedings, where important decisions were being made about his future.

GCYP supported Aaron to lodge a complaint with DCP about his experiences in care, which included facilitating a meeting between Aaron and DCP staff, where a number of actions were agreed to. Through regular contact with Aaron and DCP, GCYP monitored that the actions were followed-up. GCYP also acted as an intermediary between Aaron and DCP while the follow-up was occurring.

## Monitoring – Best Interest

### **Siblings 'Joshua and Megan' – Safe and stable placement**

9-year-old Megan and 13-year-old Joshua were living in a residential care placement together. The house was very small and the young people were sharing a room. The environment did not provide Megan and Joshua with the space and privacy they needed for their different developmental stages and individual needs. Inadequate space, combined with their complex needs and trauma history, resulted in escalating behaviour and persistent distress for Megan and Joshua. When GCYP assessed the situation further, it was clear that all professionals involved were in agreement that the placement was inappropriate and was not meeting Megan and Joshua's needs. GCYP monitored the young people's best interests until there was a successful placement move for Megan, and both young people were settled in their placements.

## Intermediary

### **'David' – Not feeling listened to by his worker**

Fifteen-year-old David contacted GCYP as he felt that the relationship with his case manager was beyond repair, complaining that he never felt listened to and stating that the only path forward was a change of worker. With David's consent, the Advocate spoke with David's worker and supervisor about how David was feeling and to relay his concerns.

The Advocate then arranged, and attended, a meeting with David, his social worker and supervisor. The purpose of the meeting was to have a frank conversation about how David was feeling, what he would like to see change and to try to repair the relationship with his worker. During the meeting, David, with support from the Advocate, was able to express how he felt unheard by his worker and what he would like to see done differently. When David became overwhelmed, the Advocate assisted him with vocalising some of the thoughts they had previously shared and clarified message content to ensure shared understanding. The meeting provided a great opportunity to talk with David about relationships and how they take work at times but will end up stronger for making that effort. The meeting ended with David and the social worker agreeing to make changes in the way they interact with each another.



## Independent Observer

### **'Sandy' – Support requested with SACAT processes**

Seventeen-year-old Sandy contacted GCYP, requesting support from an Advocate at an upcoming meeting with SACAT, to ensure their voice was heard as part of the discussion regarding an application for post-18 Administration and Guardianship Orders.

The Advocate attended the meeting with Sandy and advocated for their right to have legal representation at the upcoming SACAT hearing, with the matter adjourned as a result and the request for a lawyer granted. The Advocate also clarified SACAT processes with Sandy, explaining these in easy-to-understand language, and made sure Sandy's voice was heard by the meeting participants.

The application for orders was subsequently withdrawn, in line with the young person's preference, with family stepping forward to provide Sandy with any support needed in managing financial matters post-18.





## 4.3 Monitor

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

GCYP has a statutory obligation to monitor the wellbeing of children and young people under the guardianship, or in the custody, of the Chief Executive of the Department for Child Protection. In fulfilling this obligation, GCYP Advocates undertake a range of activities that include conducting visits to children and young people living in residential care to ensure their needs are being met and that their living environment supports them to grow and thrive; attending and auditing annual reviews; and monitoring allegations of sexual abuse against children and young people in care.

#### Reporting on Data

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

- [Final Report of the South Australian Dual Involved Project](#) – June 2022
- [South Australian child protection expenditure from the Report on Government Services 2022](#) – June 2022
- [Six Month Snapshot of the South Australian Dual Involved Project Children and young people in South Australia's child protection and youth justice systems](#) – September 2021

#### Monitoring of Residential Care

##### Virtual and In-Person Visits

GCYP conducted 13 visits to a total of 35 children and young people living in residential care houses, in both metropolitan and regional areas, between March and July 2022 (noting one visit, included in this report, was postponed and occurred on 5 July 2022). Eleven visits were conducted virtually, using Microsoft Teams, and two visits were made in-person. The purpose of the visits was to promote the role of GCYP, provide children and young people with Charter of Rights information and hear directly from them about their lived experience in residential care.

Residential Care Monitoring Visits		
Properties by region	Metro	3
	Rural	10
Service provider	DCP	2
	NGO	11
Visit type	Virtual	11
	In-person	2
Total CYP visited		35

The children and young people visited ranged in age from 6 to 16 years. Twelve identified as Aboriginal, one young person as CALD and eleven young people had diagnosed disabilities.

During the visits, Advocates heard from the children and young people about their lives (what was going well and not so well, and any worries or concerns), and observed the interactions between the residents and workers. The visits also provided a valuable opportunity to talk to the young people about the Charter of Rights and the role of OGYP, which 8 young people hadn't heard about before.

It was pleasing to see and hear how well many of the young people were doing in the placements, with lots of extracurricular activities being supported, including camps and multiple sporting opportunities. Most of the young people stated that they felt safe where they were living.

Positive feedback about carers was received from almost all the young people, with

*"I really like the carers here."*

stated many times, with one young person adding,

*"I get help with a lot of stuff."*

Children and young people generally felt listened to by their carers, with one young person stating,

*"Yes. I do feel listened to. If I would like something that I want to buy they (the carers) will listen instead of saying yes or no. How I know they listen – they reason with me."*

Children and young people also reported, in the main, that they were involved in decision-making at the house around meal planning

and activities and, in some instances, by participating in house meetings.

The issues most frequently raised by children and young people at the visits were:

- wanting increased family contact, inclusive of siblings
- internet access
- restrictions on use of technology

Other issues raised included:

- not being able to have family or friends visit at the house
- not being able to have a pet
- not understanding their orders
- interpersonal dynamics with co-residents
- not being enrolled at school
- placement matching and safety

Following the visits, GCYP supported 10 young people with requests for advocacy ranging from requests for increased family contact, internet access, consistent application of house rules, sensory items, understanding their circumstances after recently entering care, and seeing their case worker more frequently.

All matters raised by GCYP from the visits resulted in prompt follow up from, and actioning by, agencies and case management which, in most instances, resulted in positive outcomes.

### Residential Care Visits – The Way Forward

GCYP has been funded, for the next 4 years, to be the Child and Young Person's Visitor, for children and young people in residential care. The visiting program will involve in-person and virtual visits to residential care houses across the state, with a focus on meeting children and young people, hearing directly from them about their lived experience, and ensuring their care and support needs are being met.

A recruitment process and new program will begin in the 2022-23 financial year.

## Annual Review Audits

### Background

Every child in care is entitled to have their circumstances reviewed by DCP at least once per year<sup>5</sup>. One of the key tasks of the GCYP Principal Advocate is to audit a proportion of 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 individual and overall wellbeing outcomes** for children and young people in out-of-home care. The audit process involves looking at case planning processes (recognising these are integral to achieving outcomes) and attending annual reviews. OGCYP make audit findings based on reviewing DCP file records, and participation at annual review meetings.

The purpose of the audits is to ensure that the **child/young person is included** in their annual review and decision-making process, to make sure 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, GCYP will assume individual or systems advocacy from annual reviews and/or monitor the timely completion of casework actions to address gaps in support and care provision.

The audit target of 5% for 2021-2022 was **not met**, due to resourcing constraints and competing work demands, with annual review audits completed for 4% of the care population.

Annual review audits are GCYP's primary mechanism for monitoring the circumstances of children and young people in family-based care, noting that the majority of enquiries received by our office pertain to children and young people living in residential care.

### Annual review audits summary

In the 2021-2022 financial year a total of **193** annual review audits were conducted, **across 16 of the 21** DCP offices that were providing

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<sup>5</sup> *Children and Young People (Safety) Act 2017*, s 85.

case management to children and young people in care. The audits were completed by the Principal Advocate, the Aboriginal Advocate and the Assessment and Referral Officer. The 5 DCP offices not covered in 2021-2022 (Blair Athol, Woodville, Gawler, Ceduna and Riverland) will be prioritised for annual review audits in 2022-2023.

Of the 193 annual reviews audited:

- 68 (35%) were for Aboriginal and Torres Strait Islander children and young people, 3 of whom also had culturally and linguistically diverse (CALD) backgrounds
- 110 (57%) were for those described in their case plan as 'Other Australian'<sup>6</sup>
- 15 (8%) were for children and young people with CALD backgrounds (noting that an additional 3 children, recorded as

Aboriginal in their case plans, also had CALD backgrounds)

### Culturally and Linguistically Diverse (CALD)

Of the 18 children and young people with CALD backgrounds (Maori, African, Afghani, Asian, South American, Mediterranean, and Eastern European):

- 5 were living with kin
- 6 were engaged with cultural activities
- 4 had a cultural mentor

CALD life story work was occurring for **5 of the 18** children and young people.



### Aboriginal and Torres Strait Islander (children and young people (n:68) – data 'snapshot')

#### Aboriginal and Torres Strait Islander CYP– Placed with:

Extended Aboriginal Family	26	Residential Care (AFSS)**	2
Extended Non-Aboriginal Family	4	Residential Care (Other)	8
Aboriginal Foster/SCO* Carer	4	Independent Living	2
Non-Aboriginal Foster/SCO Carer	20	Other***	2

\*SCO = Specific Child Only \*\*AFSS = Aboriginal Family Support Services \*\*\*Other = non-Aboriginal Family Day Carer (x1); self-placed with birth mother (x1).

#### CYP has been supported with cultural connection

(to family, community, country and meaningful cultural activities)

	Yes	Partly	No
Family	48	13	7
Community	38	13	17
Cultural Services	45	-	23
Cultural Activities	62	2	4
Cultural Mentor	34	-	34
Life Story Books	48	-	20
Return to Country	12	3	39 (plus 14 N/A)

Just over one-third (35%) of the annual reviews audited were for Aboriginal and Torres Strait Islander children and young people:

- 51 of the 68 reviews for Aboriginal and Torres Strait Islander children and young people (75%) had an independent

Aboriginal representative on the annual review panel

- 9 of the 68 annual reviews for Aboriginal and Torres Strait Islander children and young people (13%) required follow up by GCYP from the annual review. Three cases

<sup>6</sup> This terminology is used by DCP and repeated here. OGCYP understand this description to refer to children and young people who are neither Aboriginal and/or Torres Strait Islander, or from a culturally and linguistically diverse background.

(now closed) related to placement safety and stability, while five related to lack of family contact and community connection

- 48 Aboriginal and Torres Strait Islander children and young people (71%) had a cultural Life Story book
- 26 Aboriginal and Torres Strait Islander children (38%) were living with extended Aboriginal family members, with a further 4 children (6%) living with non-Aboriginal extended family members
- 62 Aboriginal and Torres Strait Islander children and young people (91%) were linked to cultural activities, with 34 (50%) having a cultural mentor
- Return to Country trips had only occurred for less than one-quarter (22%) of Aboriginal and Torres Strait Islander children and young people (12 out of 54) who were not living on Country, with reasons for the trips not occurring including Nation not known; further family scoping needed; young age/disability; and safety risks

#### **'Gemma' – Monitoring from Annual Review**

*GCYP assumed a monitoring role for 5-year-old Aboriginal child, Gemma, after her annual review, due to lack of regular family contact and barriers to completion of a kinship assessment for extended family residing interstate. Gemma had been residing in foster care since infancy, with a non-Aboriginal foster carer, and her cultural needs were not being met in placement.*

*The barriers to completing the kinship assessment were subsequently addressed by DCP, with family contact re-implemented and a transition plan, built around the needs of the child, effected. Gemma was placed with her extended family, and is now immersed in her culture, living on Country.*

*At the time of GCYP closing the case, Gemma was happily playing with her cousins, with a strong bond to her kin and sense of comfort in her living environment evident in her interactions with family.*

## **Disability**

Of cases audited, 76 children and young people had a diagnosed disability (39%), with 58 having a current NDIS plans in place (noting that 14 were assessed as ineligible for NDIS funding). NDIS Plans, or assessment for eligibility, were in progress for the remaining 4 children and young people.

Excellent feedback was once again provided at many of the reviews for children and young people with a disability about the work of DCP's Disability Consultants, with examples given at annual reviews of how the consultants had provided 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.

## **Care Types**

Annual review audits were conducted across all care types, with the highest number being for children and young people living in family-based care (158:82%), which includes foster care, kinship care, Specific Child Only Care, Family Day Care (Guardianship) and Temporary Placement.

### **Placement Category**

Foster Care	67
Kinship Care	66
SCO	18
Family Day Care (Guardianship)	4
Temporary Placement	3
Residential	28
Independent Living	3
Self-placed	3
Other	1

## **Themes of note**

Annual Review Audits provide a rich source of information with regards to operations and management of a young person's time in out-of-home care. A number of key areas are explored and noted during these audits, these include the following:

### *Safety and stability of placement*

In terms of current placement status, the majority of children and young people (170:88%) were living in safe and stable placements, with:

- 16 (8%) living in safe and unstable placements

- 1 young person was living in an unsafe and unstable placement,
- 6 placements (3%) requiring review with regards to safety and stability

#### *Participation by children and young people*

The attendance of children and young people at their annual reviews remains low, with 68 out of 193 (35%) directly participating:

- 55 of the 68 (81%) children and young people attended in person
- 8 (12%) participated by phone
- 5 (7%) participated by Teams

Of the 125 children and young people who did not attend their annual review 39 were invited to attend but declined due to:

- 25 being at school
- 10 not interested
- 4 extenuating circumstances

GCYP was advised that 86 children and young people were not invited by DCP to attend their annual review due to:

- 38 being of a young age/capacity
- 30 were at school
- 12 where their attendance was deemed to be triggering
- 2 behaviour
- 1 would have declined if invited
- 1 being COVID-positive
- 2 reason unknown

#### *Child and young person's voice*

Completing a Viewpoint Survey is another way for children and young people to have their voice heard as part of case planning and at their annual review. Of the 139 children and young people (of an age and developmental ability to be able to complete the survey), around **one-third** (46:33%) had done so. The main reasons cited for surveys not being completed were:

- not actioned by the Case Manager (x47)
- refusal by the young person (x30)

Providing a photo of the child/young person at their annual review, if they are not in attendance, helps to personalise the annual review and keep it child focussed. While some DCP offices provided lovely A4 photos

of children and young people at their annual reviews, this is not standard practice across the state, with photos shared for just over one third (**45 out of 125**) of the children and young people absent from their annual review.

With the case planning process having changed over the last year, with case plans now updated after, rather than prior to, the annual review, the child and young person's voice has lost some currency as a result. Given that case plans are no longer up-to-date at the time of the annual review, (coupled with the consistently low participation rates of children and young people at the annual reviews and Viewpoint Surveys either not completed or not shared at the reviews), **the voice of the child is diminishing and largely second-hand** (reliant on carer and/or case manager feedback).

#### *Life Story Work*

In total, **164 out of 193** children and young people (85%) had some form of record about their life (Life Story Book, scrapbook and/or a memory box), with 24 (12%) having no life story record. This information was not known for 5 young people (3%).

For a small number of children and young people, case management identified the need for the child or young person 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 1 young person (identified from the annual reviews) undertaking life story work with a therapist.

#### *Child and young person wellbeing checklist*

GCYP have developed 12 wellbeing statements for children and young people in care. These statements reflect the **Charter of Rights for Children and Young People in Care**.

From these statements indicators have been developed to assist in providing a guide as to how the rights of children and young people are being upheld and reflected across their case planning and implementation.

Using the Wellbeing Checklist, we document the total number and percentage of children



and young people for whom each wellbeing statement was assessed as being 'Met' from their annual review audit. Appendix B contains a table which sets out the results for 2021-2022 and compares them with 2020-2021.

A summary of this data indicates:

- cultural safety (which includes all forms of diversity) has increased by 8 percentage points, from 83% to 91%, with children and young people being provided with opportunities for artistic, cultural, spiritual, recreational and/or sporting development (where age appropriate), however, some young people elected not to take up the opportunities offered to them
- lowest wellbeing rating, specific to Aboriginal and Torres Strait Islander and CALD children, was contact with their culture and community (40%). Concerningly, this is a further decrease from last year's figure of 48% and continues to reflect 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 6%, from 73% to 67%, once again reflecting the impact of COVID-19 restrictions
- children understanding their life history and current circumstances fell by 9%, from 85% to 76%, potentially reflecting, to a degree, the shortage of therapists and long waiting lists for therapy
- participation by children and young people in decision-making dropped by 15% (from 92% to 77%), reflective of their current views no longer being captured in case plans prior to their annual review
- the wellbeing rating pertaining to case management (#12a, b and c) decreased; in particular, 12a – the child has regular contact with the same case worker – which decreased by 17 percentage points from 77% to 60%

- the Case Managers for over half (58%) of children and young people had been allocated for less than 12 months, with almost one-quarter (23%) allocated for 3 months or less.

#### *Follow up by GCYP*

Of the 193 cases, only 20 (10%) were followed up by GCYP from the annual review, which is similar to last year's figure of 11%. The following were the areas for follow up:

- placement safety and stability
- family contact
- access to allied health services
- understanding of being in care
- request to move placement
- young person's views missing from the annual review

Four times as many males than females presented with issues requiring GCYP follow up, with 14 out of the 20 children and young people (70%) aged between 5 and 14 years. Nine (45%) had a diagnosed disability. The children and young people were evenly split between family-based and non-family-based placements, with almost half of the children (45%) being Aboriginal/Torres Strait Islander.

### **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

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

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 2021-2022, we received **57 Serious Care Concern Referrals** which were subject to investigation by SAPOL and/or DCP. This compares with 35 Serious Care Concern notifications in 2020-21, representing a significant 63% increase. In addition, we monitored 25 investigations that were ongoing from previous years.

We also received **16 Minor** and **47 Moderate Care Concern Referrals**. This compares with 23 Minor (30% decrease) and 27 Moderate Care Concern Referrals (74% increase) in 2020-2021. It is important 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 120 Minor, Moderate and Serious Care Concern Referrals received by GCYP in 2021-2022, 36% (43) related to or included allegations of harmful sexual behaviour between or from 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.

## 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.**

During this reporting period, the Guardian provided the following advice to the Minister:

- Critical shortage of options for placement – resulting in physical, sexual and emotional harm
- Prevalence of harmful sexual behaviour by children and young people in care, especially residential care – exacerbated by placement shortages that compromise placement matching and prevent timely responses to harmful dynamics or preventive action to avoid foreseeable risk to vulnerable children
- Ongoing targeting, grooming and sexual exploitation of children and young people in residential care by adults
- 'Dual-involved' children and young people: the 'criminalising' environment of residential care, which leads to the over-representation of children and young people from that placement type in youth justice detention

## 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**

The South Australian Dual Involved Project (SADI) commenced on 1 February 2021 and concluded on 31 December 2021.

The OGCYP produced a final Report in June 2022, based upon working alongside children and young people in care and detained at Kurlana Tapa Youth Justice Centre (KTYJC).



More information about the report is detailed below in Part 5.

Although the project has ceased, GCYP advocacy continues for dual involved children and young people, with efforts also continuing to try to source further funding to appropriately service this cohort of vulnerable children and young people. The Advocate (Dual Involved) worked with a total 17 children and young people in 2021-2022.

## 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. STRATEGIC MATTERS & ISSUES

## 5.1 Safety and stability in residential care

In 2021-22, safe and stable placements were the most common presenting issue for enquiries to GCYP. Most enquiries received directly from children and young people related to those living in residential care (78%).

Guided by the voices of the children and young people who contact our office, GCYP continues to focus research, policy and advocacy resources on improving safety and stability for children and young people in residential care.

### Placement and staffing shortages

In 2020-21, GCYP reported concerns about shortages of residential care properties, as well as staff to work within them. This has serious impacts for the safety of children and young people in residential care.

GCYP observes the following factors contributing to placement and staffing pressures within DCP, and how these have continued in 2021-22:

- The rising number of children and young people entering OOHC and residential care,
- A significant decrease in the residential tenancy vacancy rate in South Australia
- Covid-19 related staff recruitment and retention challenges, including illness-related absences, isolation and the impacts of the pandemic on broader staff health, wellbeing and resilience

In this environment, GCYP continues to receive information regarding serious staffing and placement matching issues directly impacting the safety of children and young people in residential care, as discussed below.

### GCYP key concerns and consequences around safety and stability in residential care: 2021-22

#### Staff shortages

- **Reduced capacity** to fulfil requisite carer-to-child ratios, leaving carers to manage volatile and unsafe dynamics between residents with inadequate support
- **Inconsistent care teams**, which impact stability and may lead to behavioural escalations
- **Minimal support** for frontline carers due to senior staff being stretched across multiple areas
- **Pressure on carers** to work unsustainable overtime, with associated impacts on the safety and quality of care
- **Reliance on NGO (agency) carers**, some of whom have limited experience in providing trauma-informed care for the state's most vulnerable and complex children and young people
- Case management staff, **without the requisite skills**, covering shifts in houses that cannot be filled by residential care workers
- **Administrative backlogs**, impacting the timeliness of critical incident reporting and review

#### Placement shortages

- Reduced capacity to implement **placement-matching** processes, which exposes children and young people to risk of peer conflict and in some instances peer based abuse/violence.
- **Placements proceeding despite** identified and unmitigable risks, and against the advice of case management and other care team professionals
- **Delayed (or no) action** in instances where children and young people require alternative placements due to

unmanageable safety issues between residents

- **Minimising or ignoring internal advocacy** and escalation attempts by staff regarding the safety and best interests of residents, allowing (by inaction) foreseeable trauma and harm to occur
- Children and young people **feeling unheard, unseen, and unsupported**

It is troubling to observe that some children and young people in state care are living in placements where they experience ongoing and cyclical 'peer to peer' violence. This is through common but unpredictable incidents or threats, executed by the other children and young people they live with.

GCYP has observed that children and young people who experience violence from peers in their placements can exhibit some of the same effects as children exposed to family violence, including ongoing anxiety and depression, emotional distress, hypervigilance, eating and sleeping disturbances, low self-esteem, self-harm and disengagement from school.<sup>8</sup>

*---It's meant to improve it when you're in care like, you know. Didn't happen.*

A young person in residential care

### **The Sanctuary Model**

In 2020-21, rollout commenced for the Sanctuary Model of trauma-informed, therapeutic care to all DCP residential care facilities, to be implemented over three years. The model is in use in other Australian states, and internationally. It 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, the model trains them to deliver consistent

therapeutic support through trauma-informed care.

GCYP welcomes ongoing work to implement the Sanctuary Model, and the associated DCP commitment to long-term organisational and cultural change within residential care.

We do continue to note, though, that the success of the Sanctuary Model rollout is tied to the resources invested into both:

- securing a requisite number of properties to support smaller populations in residential care homes
- recruiting and retaining staff who have the skills and support to apply Sanctuary principles and tools

### **Reduction in large residential units**

Since 2005, successive Guardians have advocated for the closure of large-scale residential units, being facilities that house more than four individual children and young people in non-home like environments.

We have previously reported that:

- in 2018-19, the government took the welcome step of closing the (12 bed capacity) Queenstown Community Unit
- in 2020-21, a further eight-bed facility was discontinued for ongoing residential care.

At the commencement of 2021-22, three large-scale residential units remained in operation. During the course of the year:

- one unit was repurposed as temporary accommodation for children and young people with Covid-19 who were unable to be appropriately isolated in their usual residential care facility<sup>9</sup>
- one unit was closed, although remained as an available property for the above purpose

<sup>8</sup> For information about the impacts of exposure to family violence on children, see, eg, Monica Campo, [Children's exposure to domestic and family violence: Key issues and responses](#) (2015).

<sup>9</sup> Whilst OGCYP, children and young people and service providers often refer to residential care facilities as 'residential care homes', GCYP maintains reference to it as a 'facility' in this report as this is the terminology used in the legislation.

- a significant refurbishment was finalised for the third unit, to create a safer and more home-like environment



The refurbishment for the third unit was co-designed by the young people living there, through the MyPlace program. The capacity was reduced to six beds, consisting of a 4 bed home and 2 bed independent living unit designed to support two residents to develop independent living skills. GCYP heard positive feedback about the refurbishment, however, we remain concerned about safety due to the large number of children and young people living there and ongoing systemic issues with DCP placement-matching practices.



GCYP acknowledges the progress to phase out large-scale residential units. We continue to hold the view that these are not suitable environments for children and young people, and that all large-scale units should be closed.

### Phasing out commercial care

In 2017, DCP commenced the process of phasing out 'commercial care'.<sup>10</sup> All 'commercial care' contractual arrangements ceased in October 2020, and DCP reports there were no children and young people residing in commercial care during the 2021-22 financial year.

GCYP's long-held position is that the purpose of phasing out commercial care was to improve safety, stability and wellbeing outcomes for the children and young people living in those placements. During the phase-out, many of the children and young people who were previously living in commercial care were placed into residential care. Residential care is also care provided by staff who work shifts on a rotational, 24/7 roster. Residential

care can feature many of the same issues as commercial care, including inconsistent staffing, poor placement matching of residents, and frequent placement moves.

As previously discussed, GCYP hold serious concerns about the safety and stability of residential care placements. As such, those children and young people who have transitioned from commercial care into residential care may continue to experience the same – and sometimes new – safety and instability issues as those present in former commercial care placements.

GCYP is aware of some instances where the move from commercial to residential care did not equate to improved outcomes for children and young people or make a meaningful difference to their lives. Achieving the intended outcomes of the phase-out requires a concerted effort to improve the availability of staff, and suitable placements for children and young people living in residential care – which GCYP is yet to see.

## 5.2 Dual involved children and young people

The South Australian Dual Involved (SADI) Project was funded from February to December 2021. It drew on the skills and experience of an OGCYP Senior Advocate, supported by our office's administrative, communications, advocacy and policy staff.

The SADI Project focused on dual involved children and young people, who are both in care and are, or have been, detained at Kurlana Tapa. As such, they are within both the TCV's and the Guardian's areas of responsibility.

The project considered the overrepresentation of children and young people from residential care placements at Kurlana Tapa. In order to better understand this vulnerable cohort and their lives, we sought their views about why they are in detention, and whether or how residential care environments influenced their offending behaviour.

The SADI Senior Advocate visited Kurlana Tapa as part of the TCV Visiting Program to establish

<sup>10</sup> Commercial care (formerly called 'emergency care') was a form of care where children are housed in temporary accommodation and cared for by rotating shifts of commercially-sourced workers.

or extend relationships with dual involved young people in detention, at times also contacting them in their residential care placements or other community settings. We advocated in relation to their “care, treatment and control” while they were in Kurlana Tapa, and their rights and best interests when in the community. When necessary, we met with services and families, including intensive engagement with lawyers, and the health, mental health, courts, disability, education, residential care, child protection and youth justice systems. An interim SADI project report was tabled in parliament in November 2021,<sup>11</sup> and the final report provided to the Ministers for Child Protection and Human Services in June 2022.<sup>12</sup>

Fifteen recommendations (listed in Appendix C) were made to government affecting several agencies, particularly in relation to care criminalisation through the residential care system, improving safety, stability and therapeutic support, improving policing and other youth justice system responses, and reducing reliance on residential care as a placement option.

### Enhanced service coordination and oversight

The SADI Project affirmed the need for specialist and intensive case management services within DCP and youth justice, as well as dedicated resources for independent oversight and monitoring. Among other things, GCYP recommended:

- DCP establish a specialist ‘dual involved team’ to provide expert and intensive support to dual involved children and young people and a central liaison function for service providers and agencies
- government fund a specialist Dual Involved Senior Advocate position in the OGCYP office to provide individual

advocacy and systemic oversight for the dual involved across government services

### Therapeutic support for children and young people in residential care

The dual involved children and young people identified for the SADI project have high rates of diagnosed disability (36.6%),<sup>13</sup> and it is likely that the actual disability rate is higher than reported. A DHS study released in 2020 found that nine out of ten young people assessed at Kurlana Tapa (including dual involved) had a disability or disability-related need.<sup>14</sup> Many dual involved young people have also experienced significant trauma, both before and after entering the child protection and youth justice systems.

A theme that arose from talking to dual involved young people was the importance they placed on social and therapeutic supports to intervene in cycles of offending.



*The workers like, yeah, helping me out as they're going right now, like, yeah, just helping me out, getting me into programs, getting me into school and, I don't know, showing, just showing that they care, ... that would probably help me not come back [to KTYJC], or put me back with my [foster] family. I know that that will definitely make me not come back 'cause then I'll be in my family.*

A young person on both Guardianship and Youth Justice Order

To review and improve systemic capacity, to meet children and young people's needs, GCYP recommended:

- independent audit of the completion rate for assessments across health, disability,

<sup>11</sup> OGCYP, Six Month Snapshot of the South Australian Dual Involved Project: Children and young people in South Australia's child protection and youth justice systems (2021).

<sup>12</sup> OGCYP, [Final Report of the South Australian Dual Involved Project: Children and young people in South Australia's child protection and youth justice systems](#) (2022).

<sup>13</sup> OGCYP, [Final Report of the South Australian Dual Involved Project](#) (2022), p 47.

<sup>14</sup> DHS, [Project Report – Disability Screening Assessment: Identification of population needs at the Adelaide Youth Training Centre \(Kurlana Tapa\)](#) (2020).



cultural and other therapeutic needs, as well as implementation of strategies into case planning and service delivery

- greater investment in supporting connection to culture for Aboriginal children and young people living in residential care

### **Reducing police involvement in residential care**

The young people who participated in the SADI Project recounted experiences of high police contact and involvement in their lives, related to going missing from care ('missing person reports'), property damage to residential care units, assaults and threats towards workers and the behaviours of other young people attracting police callouts. In family environments, many of these behaviours and circumstances would be unlikely to lead to police involvement or charges.

A design requirement of the residential care system is that it be capable of managing potentially volatile behaviour of those residents who have experienced trauma or have underlying disability, psychosocial or developmental needs that require specialist support. It should have the capacity to support young people with emotional responses, without recourse to the police in all but extreme situations.

*---So when I get angry, flip my shit, they'll be already on the phone, bro, not even – or even, sometimes I wouldn't even be threatening them and they won't even try and talk to me and say, "Are you all right, mate?"*

A young person on both Guardianship and Youth Justice Order reflecting on their experience in residential care facility

GCYP recommended:

- increased resources and training, to support residential care staff to provide the best possible care to dual involved young people
- ensuring staff qualification and ratios are sufficient to respond to the complex support needs of the residential care population

- establishing a system to record and monitor incidents which result in police involvement
- reviewing staff practices which rely on police intervention for behavioural management

### **5.3 Allegations of sexual abuse while in care**

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.]'*

As discussed in Part 4 of this report, GCYP currently fulfils a monitoring function when allegations give rise to care concerns. However, care concern referrals do not paint a complete picture of all allegations of sexual abuse of children and young people in care. In particular, 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. As a result, the Guardian may not be made routinely aware of them.

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 some adults in the community. However, without dedicating ongoing, significant resources to this complex area, it is difficult to understand the scale of the problem and what can be done to prevent the harm occurring.

In 2021-22, former Guardian, Penny Wright, initiated a Senior Advocate position at GCYP for a period of 12 months, in response to the increasing workload and complexity associated with the R20 monitoring function (namely the 63% increase in 'serious' care concerns subject to monitoring). Recruitment was finalised in 2021-22, with the role commencing outside the reporting period (early in 2022-23).

This position is a welcome addition to the GCYP team and is anticipated to improve our ability to provide timely and assertive individual advocacy and monitoring for children who are alleged to have suffered sexual abuse in care.

**GCYP will continue to advocate for permanent funding for dedicated resources in this area**, so that we can undertake the monitoring and analysis required to advise government about systemic reforms required to reduce the occurrence of harmful sexual behaviours and sexual abuse of children and young people in care.

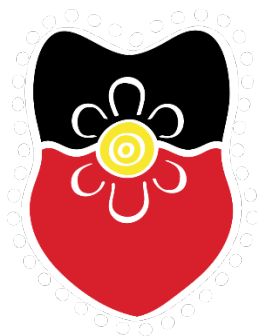
## 5.4 Aboriginal and Torres Strait Islander Child Placement Principle

Section 12 of the *Children and Young People Safety Act 2017* enshrines aspects of the Aboriginal and Torres Strait Islander Child Placement

Principle, establishing legal requirements for the exploration and engagement of Aboriginal and Torres Strait Islander families and communities in the kinship and family-based care. This legislation acknowledges the importance of culture in the growth and development of a child and young person.

The principle requires DCP to explore the following in preference:

1. A member of the child or young person's family,



2. A member of the child or young person's community who has a relationship of responsibility for the child or young person,
3. A member of the child or young person's community,
4. A person of Aboriginal or Torres Strait Islander cultural background (as the case requires).

If an Aboriginal child or young person is unable to be placed in accordance with the above, or it is deemed not in their best interests to do so, the legislation requires that the child or young person should be given the opportunity for continuing contact with their family, community and culture.

Consultation with a recognised Aboriginal or Torres Strait Islander organisation is required, 'where reasonably practicable', before making any placement for an Aboriginal child or young person. There remains only one recognised organisation for this consultation.

**GCYP holds concerns about the application of the Principle**, with respect to **both placement decisions and maintaining connection** with family, community and culture. In 2021-22, **more than half** of enquiries relating to Aboriginal children and young people raised issues about contact with significant others, including children and young people's cultural connections. Associated themes included **not having contact** with their Aboriginal community and **not being able to return to country**.

GCYP was concerned to learn from case management (during annual review audits conducted in late 2021-22 in a regional area), that the Aboriginal Family Finding and Mapping Team (AFFMT) is reprioritising its resources to 'front end' family mapping (i.e. scoping for Aboriginal children entering care). We understand, that if required, longer term orders can be referred to this program, but may not be triaged in for service.

GCYP maintains the importance of this program and for regional and remote areas to have full access. Our observations through Annual Review have been that when faced with



caseload pressures, staff may only engage in basic family mapping and contact attempts.

Restricted access to AFFMT services lends to concerns about the cultural appropriateness of some placements and cultural safety for children and young people in care. Which in turn may contribute to reduced compliance with the Aboriginal and Torres Strait Islander Child Placement Principle and efforts to ensure children and young people can maintain their connection with their Aboriginal family and community.

In 2021-22, the Commissioner for Aboriginal Children and Young People commenced an inquiry into the implementation of the Aboriginal and Torres Strait Islander Child Placement Principle across the five elements of *prevention, participation, placement, partnership and connection*.<sup>15</sup>

GCYP strongly welcomes the Inquiry, noting the need for systemic reform across the entire child protection system to improve the availability of culturally appropriate specialist services and responses to children and their families.

## 5.5 Family contact

Contact with family and other significant people has consistently featured among the top presenting issues raised with GCYP. In 2021-22, the Advocacy Team worked on a number of complex matters related to family contact, particularly contact with siblings.

It is a sad reality that many children and young people in care reside in placements separate from their siblings. Whilst this is occasionally necessary for safety reasons and may be in the children's best interests, in many cases it is due to difficulties finding placements where siblings can be kept together. The sibling relationship, if nurtured and maintained, can be a source of comfort and support for children and young people both while in care

and into adulthood (when the majority of professional relationships cease).

During the year, GCYP observed the following issues impacting on sibling contact arrangements:

- lack of consensus among care team members regarding children's voices, needs, and best interests in relation to sibling contact
- limited availability of carers and DCP staff to transport and facilitate contact, as well as the distance between placements and DCP offices
- conflict between carers and other care team members
- logistical and communication issues associated with planning contact for large sibling groups and/or where siblings are case managed by different DCP offices
- prioritisation of other activities and commitments above sibling contact, without recognising the potential therapeutic benefits of the sibling connection in its own right

GCYP continues to advocate strongly for sibling connections to be nurtured and maintained, in accordance with children and young people's wishes and best interests.

## 5.6 Access to services in care

GCYP has previously reported concerns about systemic issues around access to education, health and mental health services. In 2021-22, these issues continued to be raised in annual reviews and enquiries to GCYP.

### Education

Barriers to accessing education continued as a theme from annual reviews for a cluster of children and young people. Access was impacted by:

- delayed enrolments (due to schools not always accepting enrolments for children and young people in care)

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<sup>15</sup> CACYP, [Inquiry into the application of the Aboriginal and Torres Strait Islander Child Placement Principle in the removal and placement of Aboriginal children in South Australia: Background Paper](#) (2022).

- cognitive assessments not having occurred to determine whether a child/young person has a diagnosable condition that would make them eligible for NDIS or other support
- limited capacity in special options classes
- trauma-informed approaches not being utilised to manage trauma-related behaviour in the classroom, resulting in frequent take homes, suspensions and exclusions

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

Feedback from Annual Reviews in regional areas continues to identify access to health services, in particular allied health (occupational therapy, speech therapy and psychological services), as a major issue, limiting the capacity to attend to key health needs of children and young people in these areas.

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.

### **Mental health services**

Access to mental health services is an acknowledged challenge for children and young people throughout Australia. Children in care are particularly vulnerable to mental ill-health, due to the trauma and adversity they have commonly experienced – both prior to, and after, entering care.

Through enquiries for advocacy, audits of annual reviews, visits to residential care facilities and working with dual involved children and young people, 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 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 has been considerable doubt about their access to adequate assertive treatment.

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

Another continuing common theme from annual review audits is the shortage of mental health practitioners for children and young people, particularly psychologists and therapists specialising in trauma-informed care. This issue continues to be highlighted in regional and remote areas, impacting on service accessibility. Waiting lists remain in place for psychological services in both metropolitan and regional areas.

## **5.7 Support for care leavers**

Among the young people and adults who have called our office for advocacy support in 2021-22, leaving care has been a big issue. Their concerns have related to:

- wanting to move into independent living
- a lack of planning for their transition from care
- a lack of post-care support
- the availability of post-care housing and the risk of homelessness

The impacts of cost-of-living pressures and low rental vacancy rates which affect all young people in South Australia, have a unique impact on care leavers, particularly those transitioning from non-family-based care. Many young people can stay living with their birth or in some instances their foster family while they learn a trade or study at university, or receive financial support from birth families or carers, often into their 20's. In contrast, young people living in residential and other non-family-based care are reliant on state services to provide financial and

accommodation support while they prepare for their futures.

The *Children and Young People Safety Act 2017* requires the Minister for Child Protection to offer each care leaver the assistance the Minister thinks appropriate, for their transition from care. If the young person accepts the offer, this assistance can be provided up until the age of 25 years. Relevant assistance may include finding housing, employment and access to health, legal and counselling support services. However, the level of assistance required, including the timeframe, is at the discretion of the Minister.

South Australia has positive programs in place for supporting care leavers, including extended care up to 21 years for young people in foster and kinship care, and post care support provided through Relationships Australia South Australia (RASA). However, young people in residential care and Supported Independent Living Services (SILS) are ordinarily expected to leave their placement when they turn 18,<sup>16</sup> and high demand for RASA services can cause access challenges for young people in need of post-care support.

In 2021-22, DCP launched a new trial program to fill the housing service gap for young people in residential care transitioning from care. The *Next Steps Pilot Program* is for young people 17 and a half years and over who are:

- living in residential care in the Adelaide metropolitan area
- have 'complex needs'
- are at risk of homelessness

The program, developed and funded by DCP, is being operated by Centacare in partnership with Aboriginal Sobriety Group, Housing Choices SA and DCP. The service is designed to work alongside participants to help them develop and achieve their goals, which might include:

- finding and moving into new accommodation
- building life skills such as budgeting, paying bills and looking after their accommodation
- finding and using services they need
- starting or continuing education, training or employment
- connecting safely with people that matter to them
- connecting with their community and culture, and
- managing legal issues

GCYP are pleased at the introduction of this pilot program, which we hope will go some way to filling service gaps for care leavers. However, we note with concern that the challenges facing young people in the housing market are more extensive than the scope of services offered through the Next Steps program, and young people not within the scope of the pilot program remain without critical housing support. This includes young people living in remote and regional areas.

More broadly, GCYP is aware of ongoing issues faced by DCP case management and NGO providers of Supported Independent Living Services (SILS) in relation to achieving 'Category 1' status with Housing SA for young people approaching their transition from care.

Whilst GCYP acknowledges the high volume of people and families in need of housing, GCYP highlights the particular vulnerability and needs of young people in state care. GCYP considers that these young people, particularly those living in residential care or SILS placements in the lead up to their 18th birthday, should be afforded 'Category 1' status as a matter of course. GCYP intends to engage in systems advocacy in relation to this issue in the coming financial year.

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<sup>16</sup> DCP have advised OGCYP that SILS contracts only extend to a young person's 18<sup>th</sup> birthday, with provision for outreach support available until the age of 18 and 3 months. OGCYP is aware from individual advocacy matters that residential care placements are not intended to continue beyond the age of 18, but can be temporarily extended by DCP if post-care housing is not yet in place.

# 6. ABOUT THE OFFICE

## 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>17</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 or 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 the role's statutory functions.

The Guardian has powers necessary, expedient or incidental to the performance of the role's functions, including the power to require information from organisations and people necessary to fulfil the 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).

## 6.3 Work health and safety

There were no work health and safety claims during 2021-2022.

## 6.4 Complaints

There were no formal complaints in 2021-2022.

## 6.5 Freedom of information

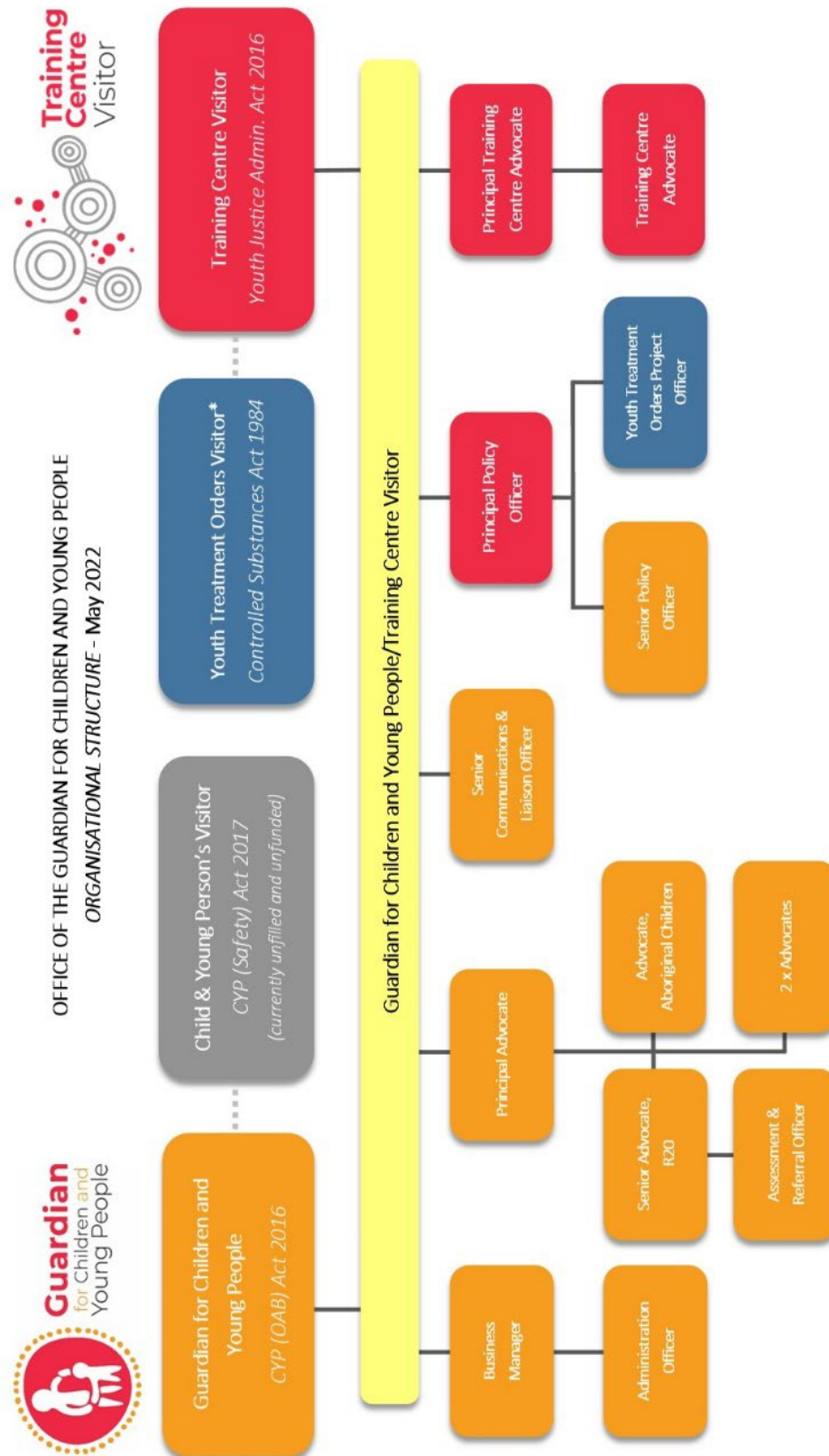
Legislation exempts information about individual cases from disclosure under the *Freedom of Information Act 1991*.

There was no FOI request for other information during 2021-2022.



<sup>17</sup> E Mullighan, Children in State Care Commission of Inquiry Final Report (2008).

## 6.6 Organisational structure 2021-2022



\*Since November 2021 the Training Centre Visitor has been assigned the role of Visitor for the Youth Treatment Order Visitor Scheme.



# 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 2021-2022 ('000)**

Item	Budget	Actual	Variation
Salaries and wages	1,270	975	295
Grants, goods and services	270	411	141
<b>Total</b>	<b>1,540</b>	<b>1,386</b>	<b>154</b>

## *Project 973: Training Centre Visitor (including budget for Youth Treatment Orders)*

### **Financial Summary of expenditure 2021-2022 ('000)**

Item	Budget	Actual	Variation
Salaries and wages	409	452	43
Grants, goods and services	48	53	5
<b>Total</b>	<b>457</b>	<b>505</b>	<b>48</b>
Revenue (DHS & AGD)	457	457	
<b>Net</b>	<b>0</b>	<b>48</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.

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

Contractors	Purpose	\$ Actual payment
Basement Enterprises PTY LTD	Recording studio	900.00
Daniel Giles	Artist for Nunga Oog	350.00
Julie Dini	Staff support	2,000.00

Contractors	Purpose	\$ Actual payment
Kate Potter	GCYP & TCV graphic design	405.00
Madeleine Karutz	Illustrator for Charter of Rights materials	6,800.00
Wiyana Spirit One Creative	Artist for Nunga Oog	600.00
BJ Lorek Consulting	TCV Practice supervision	4,100.00
Sandra Higgins	Transcription services	3,188.42
Youth participation	Projects & recruitment	1,084.00

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

Contractors	Purpose	\$ Actual payment
LeadersHP PTY LTD	Review & strategic planning	45,175.00

# APPENDIX A

## Number of Annual Review Audits

No	DCP Office	Aboriginal and Torres Strait Islander	Aboriginal and Torres Strait Islander to be Confirmed	CALD*	Other Australian <sup>18</sup>	Total
1	Berri (Riverland)	-	-	-	-	-
2	Blair Athol	-	-	-	-	-
3	Ceduna	-	-	-	-	-
4	Elizabeth	2	1	-	7	10
5	Far North (Cooper Pedy & APY Lands)	7	-	-	-	7
6	Gawler	-	-	-	-	-
7	Hindmarsh	7	1	9	24	41
8	Inner South	-	-	3	28	31
9	Kadina	8	1	1	15	25
10	Mount Barker	4	-	-	-	4
11	Mount Gambier (Limestone Coast)	9	-	-	-	9
12	Murray Bridge	6	-	-	1	7
13	Noarlunga	-	-	-	5	5
14	Playford	2	-	-	8	10
15	Port Augusta	3	-	-	1	4
16	Port Lincoln	5	-	-	3	8
17	Port Pirie	4	-	-	4	8
18	Salisbury	-	-	2	3	5
19	St Marys	3	-	-	4	7
20	Whyalla	5	-	-	7	12
21	Woodville	-	-	-	-	-
<b>Total</b>		<b>65</b>	<b>3</b>	<b>15*</b>	<b>110</b>	<b>193</b>

**NB:** \*CALD includes African, Maori, Afghani, Asian, South American, Mediterranean and Eastern Europe cultures.

<sup>18</sup> This terminology is used by DCP and repeated here. OGCYP understand this description to refer to children and young people who are neither Aboriginal and/or Torres Strait Islander, or from a culturally and linguistically diverse background.

# 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:193)*

		2020-2021	2021-2022	Increase/ Decrease
1	This child lives in a kind and nurturing environment	92%	91%	Decrease 1 pp*
2a	This child is, and feels, physically and emotionally	88%	91%	Increase 3 pp
2b	This child is, and feels, culturally safe	83%	91%	Increase 8 pp
3	This child is treated with respect, by workers and carers	99%	96%	Decrease 3 pp
4	This child is receiving appropriate shelter, clothing and nourishment	99%	98%	Decrease 1 pp
5	This child is cared for in a placement that is stable and secure	87%	87%	Even
6	This child has a secure personal space to which she/he can withdraw and where personal things are kept safe	93%	98%	Increase 5 pp
7a	This child has contact with family and/or other significant people who provide a sense of identity and belonging	73%	67%	Decrease 6 pp
7b	Aboriginal and Torres Strait Islander/CALD only: This child has contact with their culture and community	48%	40%	Decrease 8 pp
8a	This child has access to health services that meet their needs	95%	96%	Increase 1 pp
8b	This child has access to disability services that meet their needs	80%	71%	Decrease 9 pp
9a	This child is getting an education suited to their needs	89%	86%	Decrease 3 pp
9b	This child has the opportunity for artistic, cultural, spiritual, recreational and/or sporting development	97%	100%	Increase 3 pp
10	This child understands to the full extent of their capacity their life history and why they are in their current circumstances	85%	76%	Decrease 9 pp
11	This child has knowledge of and participates in decisions that affect them	92%	77%	Decrease 15 pp
12a	This child has regular contact with the same case worker	77%	60%	Decrease 17 pp
12b	This child's case worker is skilled, knowledgeable, and respectful	95%	92%	Decrease 3 pp
12c	This child's case worker advocates energetically in the child's best interests	46%	39%	Decrease 7 pp

\*pp = percentage point/s

# APPENDIX C

## *Recommendations, Final SADI Report 2022*

### **Recommendation 1 – Bolstering independent oversight and advocacy**

That the South Australian government provide the Office of the Guardian for Children and Young People with:

- (a) The staff and other resources reasonably needed to carry out the functions of the role of Child and Young Person's Visitor, as are legislated in s118 of the Children and Young People (Safety) Act 2017; and
- (b) The resourcing to establish a specialist Dual Involved Senior Advocate position to provide individual advocacy and systemic oversight for dual involved children and young people that –
  - (i) Operates across government and especially in relation to the child protection, youth justice and health (including mental health) systems; and
  - (ii) Must pay particular attention to the needs of Aboriginal children and young people.

### **Recommendation 2 – Making residential care units safer**

That DCP accelerate implementation of Nyland Report recommendations 145 and 14915 and provide quarterly implementation progress reports to OGCYP.

### **Recommendation 3 – Assessment of needs and potential**

3.1 That the South Australian government commission an independent review of DCP and DHS files to investigate and determine:

- (a) The rate of compliance with existing policies regarding health, disability and cultural support needs assessments for children and young people in care, including the extent to which assessments occurred within the requisite timeframes. The audit should specifically consider policies that address the:
  - (i) Cultural needs of Aboriginal children and young people;
  - (ii) Disability needs of children and young people, including access to the NDIS and implementing NDIS plans; and
  - (iii) Health and development needs of children and young people, including mental and psychosocial health.
- (b) The extent to which case plans appropriately incorporate identified strategies, applicable placement principles, access to services and other cultural and therapeutic supports;
- (c) The extent to which identified strategies, applicable placement principles, access to services and other cultural and therapeutic supports are implemented; and
- (d) Targeted recommendations to improve compliance with policies regarding assessment, case planning and implementation of health, disability and cultural support needs.

3.2 That DCP develop and incorporate the following into the assessment and planning procedures for children and young people in care: a. Culturally appropriate tools to identify risk factors for offending behaviours; b. Targeted therapeutic and other interventions to mitigate these risks and divert potential youth justice involvement; and c. Clear placement principles to avoid placing children and young people with an identified risk of offending behaviours in criminogenic environments.

### **Recommendation 4 – Increased support for Aboriginal children and young people**

That DCP deploy additional effort and investment to support connection to culture for Aboriginal children and young people living in residential care, paying particular attention to the causes of, and potential consequences for, those who have offending behaviours or whose behaviours may risk involvement in the youth justice system.



## **Recommendation 5 – Enabling effective care and support**

5.1 That DCP provide the resources, training and framework necessary to enable residential care staff to provide the best possible care and, in particular to ensure that staff are appropriately qualified and staff ratios are sufficient to respond to the complex support and management needs of the residential care population, as a whole.

5.2 That the resources, training and framework at 5.1 should include:

- (a) Specialist mental health, disability, and drug and alcohol training for residential care staff to improve their capacity to identify and respond to behaviour associated with factors such as mental ill health or substance misuse
- (b) An accreditation scheme which sets specific competency and training benchmarks for staff who work directly with a category of dual involved children and young people who have exceptionally complex support and management needs
- (c) Reviewing the appropriate classification and remuneration for relevant accredited DCP staff members under the relevant industrial instrument; and
- (d) A staffing model that incorporates requirements for designated positions to hold or undergo the above accreditation, supported by appropriate roster arrangements.

## **Recommendation 6 – Reviewing and analysing police involvement in residential care**

6.1 That DCP establish a system to specifically record and monitor critical incidents in residential care which result in police involvement or attendance, in order to –

- (a) Track and analyse the prevalence, severity and management of incidents across individual residential care facilities; and
- (b) Identify and mitigate causal factors.

6.2 That DCP urgently review and address the practice of relying on police intervention for behavioural management.

## **Recommendation 7 – Reducing police involvement in residential care**

7.1 That DCP and SAPOL develop a joint protocol to govern the procedure, purpose and required benchmarks for requesting police attendance and response at residential care facilities, with the objective of:

- (a) Minimising unnecessary resident contact with the youth justice system; and
- (b) Reducing the incidence of charging children and young people living in residential care with property offences.

7.2 That the above protocol be monitored in consultation with:

- (a) Children and young people with an experience of residential care;
- (b) A representative Aboriginal Community-Controlled Organisation; and
- (c) The Office of the Guardian for Children and Young People.

## **Recommendation 8 – Restrictive practices in residential care**

8.1 That DCP investigate the extent and circumstances under which the restrictive practice of locking children and young people inside, or otherwise depriving them of liberty within a residential care unit, is occurring.

8.2 That DCP review policies and staff training to ensure residential care staff are provided with adequate training, support and guidance to implement alternatives to restrictive practices.

## **Recommendation 9 – Accountability**

9.1 That DCP and DHS collaborate with other relevant government departments and agencies (such as SAPOL, the Courts Administration Authority, Education and SA Health) to undertake improved collection of data and other information pertaining to the circumstances of dual involved children and

young people. Data capture should enable analysis of the following matters for all children and young people in care:

- (a) The reasons for and outcomes of police attendance at care placements;
- (b) Instances and periods of detention in police vehicles and cells;
- (c) Access to diversion;
- (d) Access to bail;
- (e) Bail conditions and breach of bail offences;
- (f) The practice of 'over-charging';
- (g) Charges that relate to conduct occurring at the care placement;
- (h) Charges that relate to a child or young person being missing from placement; and
- (i) Sentencing practices and outcomes.

9.2 That the data should be disaggregated to enable reporting regarding children and young people according to their gender and the following characteristics:

- (a) Aboriginal children and young people;
- (b) Children and young people with disability; and
- (c) Placement type, including residential care.

### **Recommendation 10 – Vehicles as places of detention**

That the SA parliament legislate to provide the Training Centre Visitor with the mandate and resources to enable independent oversight of children and young people when they are compulsorily detained in transport vehicles under the authority of DHS/Kurlana Tapa, SAPOL, DCP, SA Health or a private contractor, including in the context of the commencement of the Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in South Australia.

### **Recommendation 11 – Children and young people in police cells**

11.1 That the South Australian Government undertake an urgent independent review of the practice of holding children and young people in police facilities to ensure that any such detention only occur in accordance with strict compliance with child safe principles.

11.2 That the Training Centre Visitor be granted statutory oversight responsibilities for police facilities that function as a place of detention for children and young people, including in the context of the commencement of the Optional Protocol to the Convention against Torture, and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT) in South Australia.

### **Recommendation 12 – Bail and remand**

That DCP, SAPOL and the Youth Court collaborate to investigate and address the relationship between bail-related offences, residential care, remand and detention by –

- (a) Reviewing bail and remand practices to identify discriminatory impacts for children and young people in residential care. The review should specifically consider:
  - (i) Curfew and non-association bail conditions;
  - (ii) The extent to which bail is denied due to unsuitable DCP placements and/or on DCP's request;
  - (iii) Cautioning or charging a child or young person with the offence of breach of bail; and
  - iv. Sentencing for the offence of breach of bail.
- (b) Developing alternative diversionary responses for children and young people who breach bail for offences committed while in residential care (including to prevent the subsequent impact of remand on placement stability).

### **Recommendation 13 – Supporting children and young people in court**

That DCP deploy additional resources and efforts to attend court as the corporate parent for children and young people in care.

#### **Recommendation 14 – A specialist DCP ‘dual involved’ team**

14.1 That DCP establish a specialist ‘dual involved team’ with the role of –

- (a) Providing, expert and intensive support to children and young people involved in the youth justice system;
- (b) Functioning as a central contact point for other relevant agencies and service providers for dual involved children or young people;
- (c) Ensuring that placements are available for dual involved children and young people when they are released from Kurlana Tapa;
- (d) Coordinating appropriate bail addresses and bail support to reduce the incidence of dual involved children and young people breaching bail conditions; and e. Providing intensive case management to facilitate better access to established mainstream service providers and support while young people are within Kurlana Tapa.

14.2 That the specialist DCP dual involved team include Aboriginal designated positions.

#### **Recommendation 15 – Improved transition planning**

15.1 That DCP take primary responsibility for planning all transitions out of detention for dual involved children and young people.

15.2 That DCP collaborate more effectively with DHS and other relevant agencies to plan for transitions by –

- (a) Developing timely plans for transitioning back into the community and/or transitioning from care, in consultation with dual involved children and young people;
- (b) Recognising the potentially disruptive effects of transitioning out of detention into community living or ‘ageing out’ of care;
- (c) Retaining placements that are valued by detained children and young people (to maintain accommodation stability and minimise disruptive moves); and
- (d) Co-ordinating interventions and services that provide dual involved children and young people with care, rehabilitation, support and development opportunities.



**Guardian**  
for Children and  
Young People

