

Rights, Rules and Rage in the lives of Children in Residential Care

CREATE Presentation, Friday 22nd April 2024

Good afternoon to you all. My name is Shona Reid, I am an Eastern Arrernte woman from the Northern Territory. I wish to humbly and respectfully acknowledge the lands, waters, skies, histories, legacies, talents, creations, sciences, care, love, kindness, giving and generosity of Kurna. It is Kurna that have welcomed me to this place as a guest from my country and I am eternally grateful to grow my children and my family in this place.

I also happen to be the Guardian for Children and Young People, Child and Young Person's Visitor and Training Centre Visitor. In summary, I humbly hold the responsibility for oversighting the work and conduct of government as it aims to care for children in out of home care and youth detention.

I'd like to pay my deep respect to the some 4800 children in care today, approximately 700 of whom are in residential care. I would also, in the same light, like to also pay my respect to the 51 children in the youth detention centre today – of whom about 14% are also children in care.

SLIDE 1



Today, I gave you a particularly provocative title for this session. I do this to grab your attention, I do this to gain your interest. I do this to elicit an emotion, I do this because we have all felt 'rage' at some stage in our lives. This is what makes us connected, our capacity to feel similar emotions. This is what binds us and drives us to do better together.

Let's get down to it. I hope that my session provides you with something to take away, whether it be a new awareness... whether it be determination to prove me wrong... whether it be comfort that someone is saying what you're thinking... whether it be merely an opportunity to soak the information up.

Whatever your takeaway, I come to you as a person who has worked hard to bring factual, reliable, honest information – that is genuinely aimed at helping us get better at working with kids in residential care.

I come to you as someone who was a practitioner in child protection for many years and sees the struggle of staff and the sector to get things right, in a system that tries to parent but can't possibly replace strong families.

I would like to begin by recognising that the information in this session contains actual statements from children and young people. To do justice to their words and their trust in me, I present them to you in good faith, that you will hear them. Please do not take these words and re-purpose them – these statements are provided in a specific context, and it is in that context I use them today.

I trust in you to use this information and their words as intended, to honour their faith in us and to respect that they too have big feelings that are overwhelming and all encompassing. I ask you to hear these words and take them with you, as I do, for our betterment as adults. In that spirit, please use these quotes for your own learning, not for your own sharing.

Some of these quotes are confronting, but it is necessary to share them because they are real statements made to me and my team, in our work with children and young people in residential care facilities.

SLIDE 2



- House run by government or non-government agencies
- House with multiple children or single child only
- Staffed by government employees, care agency employees or agency employees
- 24 7 365
- Structured Routines
- Aims to support the needs of growing and developing children

Just so we are all on the same page, I want to take a moment to share with you what I mean by 'residential care'.

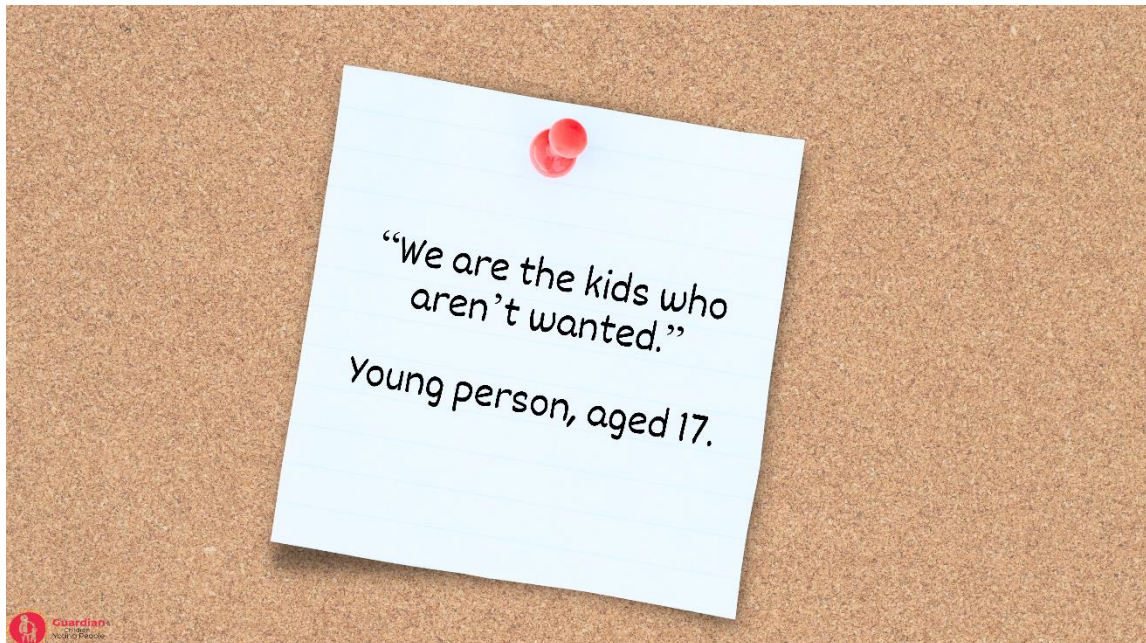
Residential care, put plainly, is a place where children who cannot live with their biological families reside. It is not a family-based placement nor is it a kinship care placement. It typically is a house – most likely with multiple children (sometimes known to each other, sometimes not), and with staff providing 24/7 supervision and care. In some instances, there may be only one child in this house.

The environment **aims** to be safe and supportive, offering structured routines and various activities to promote the children's well-being and development.

I think it is safe to say, and I have long held the position, that there are relatively few instances where a residential care placement is in the best interests of a child or young person.

However, I do acknowledge that there are instances where residential care may be necessary if all other options (safety planning at home, kinship care, other family-based care) have been exhausted or are simply unsafe for that particular child, in that particular situation.

SLIDE 3

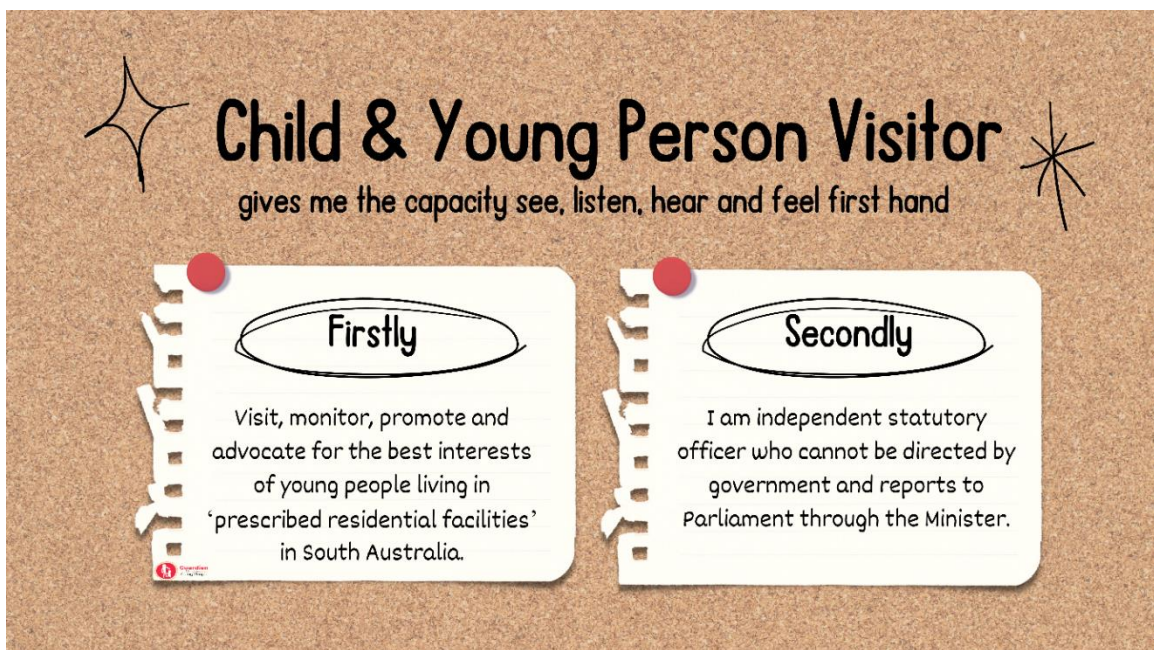


This lack of alternative placement can be distressing for young people, and form part of a narrative they develop about their lives, themselves and the people around them.

This slide is hard to read, and we know that we don't want any child to think or feel this. But whether we want that or not, this young person did. Their experiences and the understanding they built around their placement difficulties reinforced this personal narrative.

If you feel sad, then imagine how this young person feels and lives with this narrative.

SLIDE 4

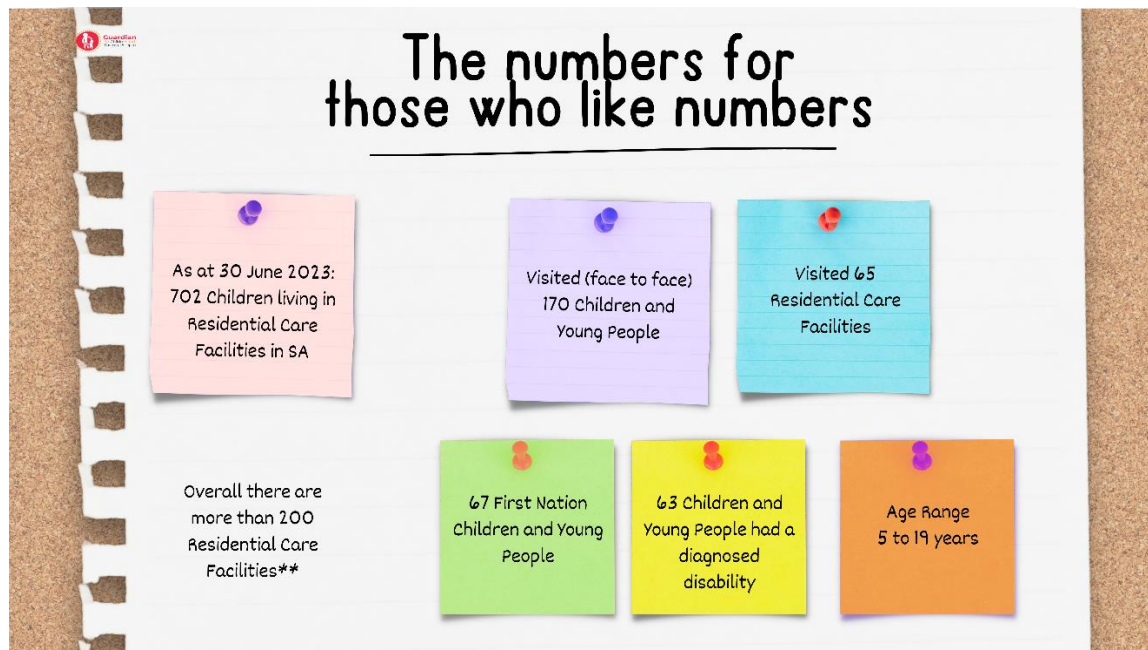


My statutory mandate says that I must visit, monitor, promote and advocate for the best interests of young people living in 'prescribed residential facilities' in South Australia.

I am an independent statutory officer who cannot be directed by government and reports to Parliament through the Minister.

Simply put: I go out to residential care facilities, connect as best I can with children and young people and check out the conditions of the property (is it 'fit for purpose' i.e., will it support this young person growing up?)

SLIDE 5



I want to share with you some of the knowledge and learnings I have gained from undertaking my functions.

I am always nervous to share statistics and numbers. Often children and young people are reduced to demographic statistics, with their individual personalities sidelined to focus on their vulnerabilities or all the stuff that has gone wrong for them.

So, while demographic information is important to understand and service this vulnerable population, I want to reiterate that my intention is to engage with children and young people first as the individuals they are. Their feelings, experiences and lives are much, much, more than the numbers I share with you.

Since the start of the formal visiting program (1 January 2023), my staff (under the authority of my mandate) have visited a total of 65 Residential Care Facilities/ Homes/ Houses/ Places/ 'Shitholes'/ "Not my home"/ "err its alright" house. In these places, a total of 170 children and young people have been housed, with:

- 67 recorded as being Aboriginal or Torres Strait Islander
- 63 recorded as having a diagnosed disability.

Across these houses the age range has varied from as young as 5, to nearly 19.

Despite the 2016 Child Protection Systems Royal Commission recommendation that no children under 10 reside in residential care (unless necessary to keep a sibling group together):

- 32 young people visited were 10 or younger.
- Of these, 14 were not residing with siblings.

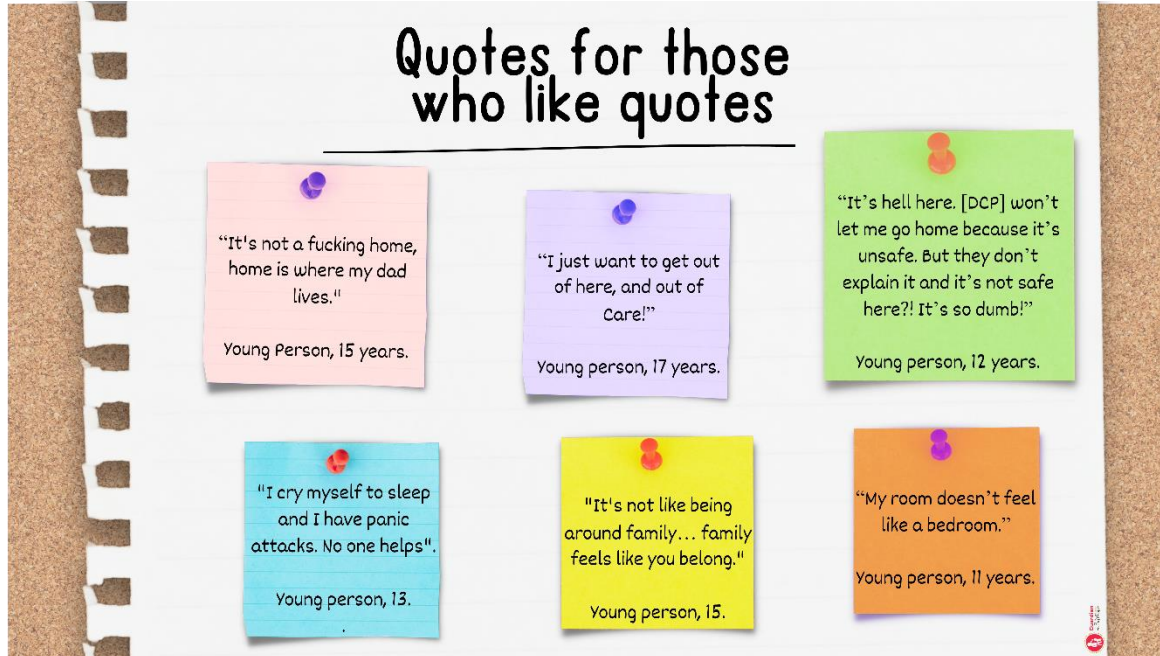
This does not capture the number of young people who are now over 10 but have resided in care since younger than 10 (i.e., a recent young person visited who was 11, but has been in care for more than four years).

Overall – as of 30 June 2023 – there were 702 young people lived in residential care houses in South Australia, spread across more than 200 houses. In the coming months I will have a more

accurate statistic on this – but for today's purposes, this is the best published number I am prepared to share.

I reiterate my statements before, that numbers do not define the children and young people, and frankly none of these numbers truly talk to the impact residential care has on the lives of the people who must dance between them.

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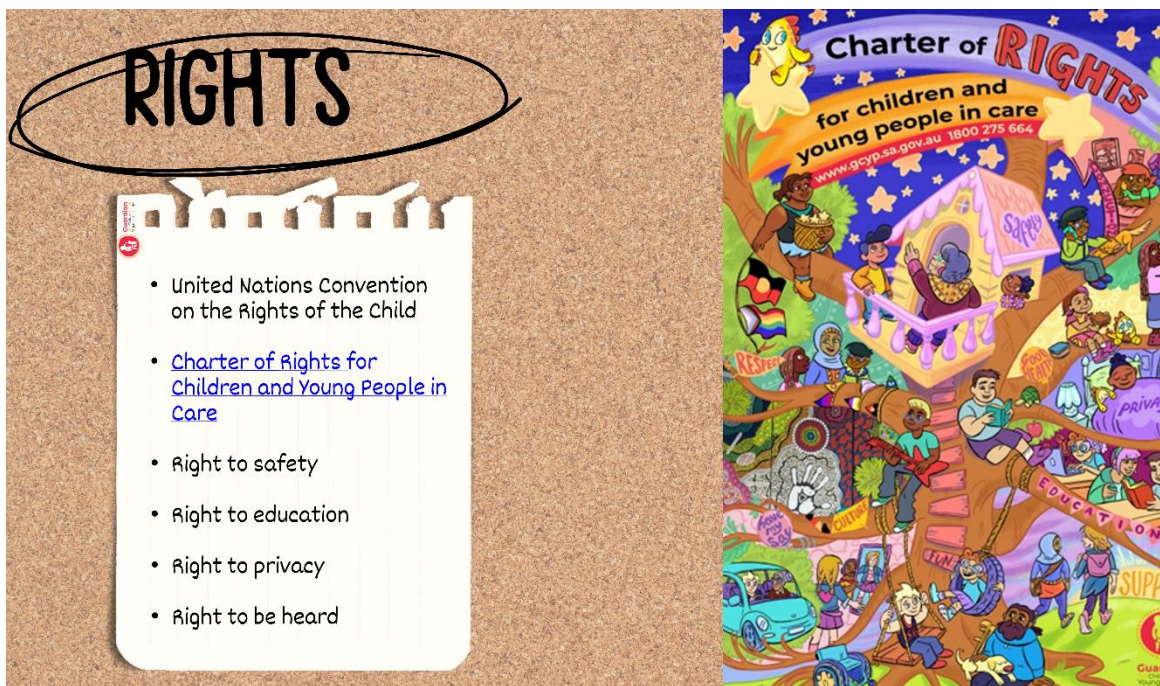


I present to you now some quotes.

I'm not going to read them for you, I simply will give you time to go through these.

I will also take a moment of silence to respect these quotes.

SLIDE 7



Needless to say, children in residential care houses navigate a complex world of rights, rules, and emotional challenges. We know that children and young people are often placed in care

due to challenging circumstances such as family breakdown, abuse, or neglect and they face a unique set of challenges and opportunities.

I am keen to explore the concept of rights a bit further, the rules governing residential care, the emotional roller coaster children and young people often talk to us about as it relates to their very real experience.

The rights of children in residential care are enshrined in various international and national legal frameworks, notably the United Nations Convention on the Rights of the Child (UNCRC), United Nations Declaration on the Rights of Indigenous Persons (UNDRIP) and United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

Rights are also clearly set out for children and young people in the Charter of Rights for Children and Young People in Care (the Charter), prepared and maintained by the Guardian, as required by one of my many Acts.

I have brought some along – please help yourself and empower yourselves in the narrative of rights.

The rights developed and maintained in this charter are consistent with international rights standards. This includes the right to safety, the right to education, the right to privacy, and the right to be heard to just name a few. All children and young people in care are entitled to know their rights, and access them without guilt or shame.

These rights cannot be taken away or used as a bargaining tool.

The people around them must enable and promote access and awareness to such protections.

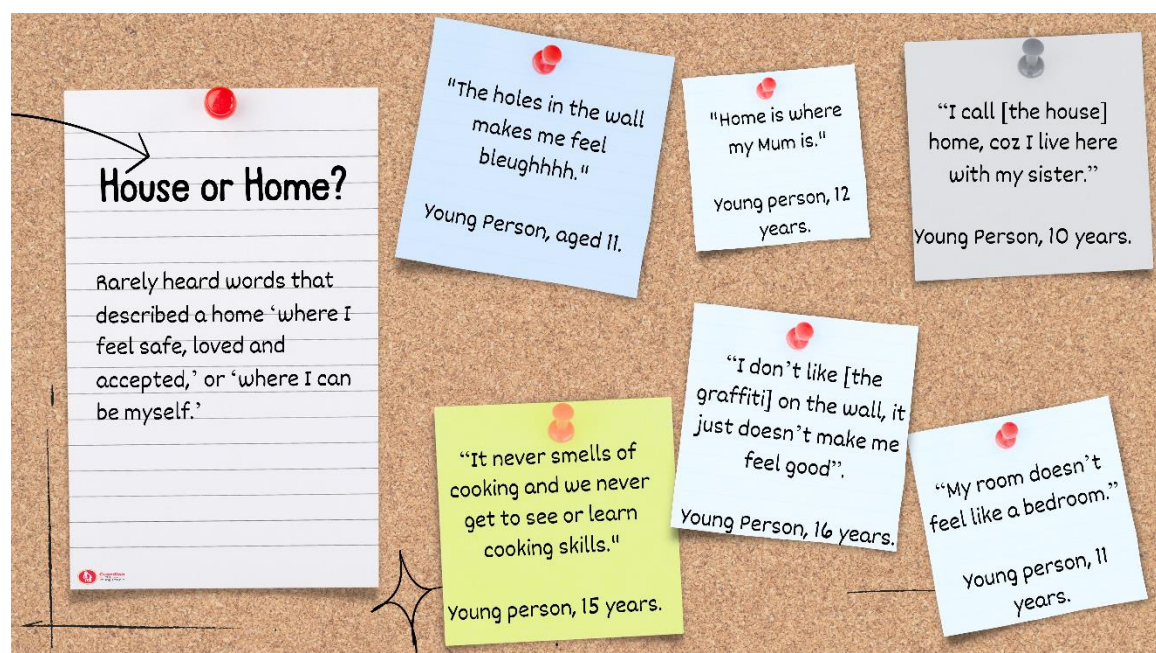
Despite this, many children and young people report that they feel a disconnection between the aspired right and the experiences of their daily lives.

Despite these protections, children in residential care often face violations of their rights.

They may experience inadequate living conditions, lack of access to quality education, or insensitivity to their emotional and psychological needs.

Let me go through some instances or examples of this.

SLIDE 8



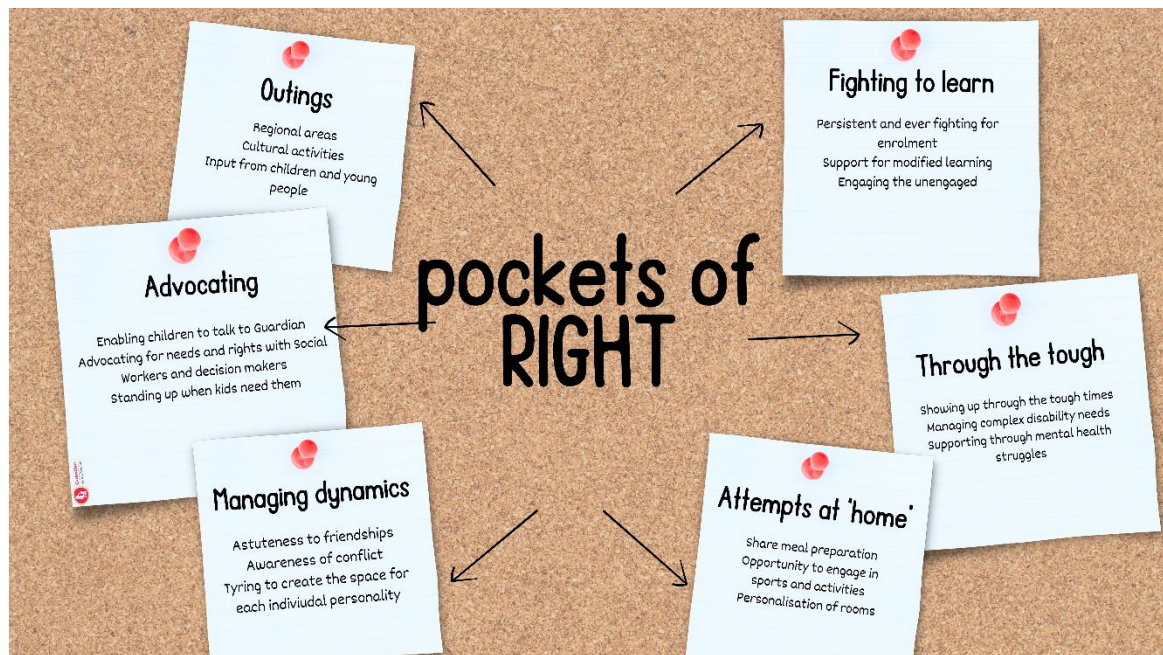
Houses or Homes?

Descriptions of home often refer to places 'where I feel safe, loved and accepted,' or 'where I can be myself.'

My Visiting Advocates rarely hear such words. Instead, young people convey feelings of uncertainty and disconnection.

This slide provides some statements that children shared with us about what they understand their 'placement' to be. These are real statements from the 2022, 2023 and 2024 years.

SLIDE 9



We have also heard or observed good practice and houses where rights has been upheld. I call these 'Pockets of RIGHT' because I see them occur in pockets of sites across SA.

My travels to regional and country areas have provided great insight into some good 'natural' and 'family like' practices.

Perhaps it's the smallness of the community, the level of personal accountability staff have to their community. The fact that everyone knows everyone. This is something I am keen to learn more about.

But there are opportunities to learn from these pockets of things that work well, to explore how they can be amplified in other places and spaces.

We know they work well – because the children tell us they work well. Their experiences in care are better.

SLIDE 10



There are also instances where we see the 'Not so RIGHT'.

I just wanted to focus a little bit on education particularly, **engagement in education**. From the ages of about 5 to 18 school is a big part of young people's lives, but there are some significant barriers for full engagement in the education system of young people who live in residential care, undermining the participation they are entitled to have.

School may be a place within which young people from residential care struggle to fit, adapt to a routine, or develop friendships. For no small number, it is the location from which DCP removed them from their families.

Carers reported that this experience could affect willingness to attend school, particularly for younger children.

Only seven of the 65 placements visited have reported all young people residing there attend school full-time (approximately 11%).

Barriers are diverse and come from the education systems as well as DCP. Enrolment can take months, particularly if young people move placements unexpectedly. Anecdotally, we have heard of young people spending entire school terms unenrolled – despite expressing they wish to go – due to:

- enrolment issues
- reports of 'guardianship caps' from school (although the education department advise this is not an approved practice, yet we hear it in case meetings and we are told this by case workers)
- exclusion from schools instead of trauma informed behaviour management.

Let me pivot topics a little bit, I want to talk now about **Leaving Care**.

A fundamental right for children in care is to be supported so they are ready to leave care and feel good about their future.

Young people reported an intensifying sense of uncertainty as each new day brought them a step closer to 'independence'. While young people's transition from care is 'one file of many' for their caseworker, it is that young person's whole future.

Anecdotally, according to the calls into my office, visits to residential care facilities and visits to the detention centre... it is the worst it's ever been! We also need to marry this with the context

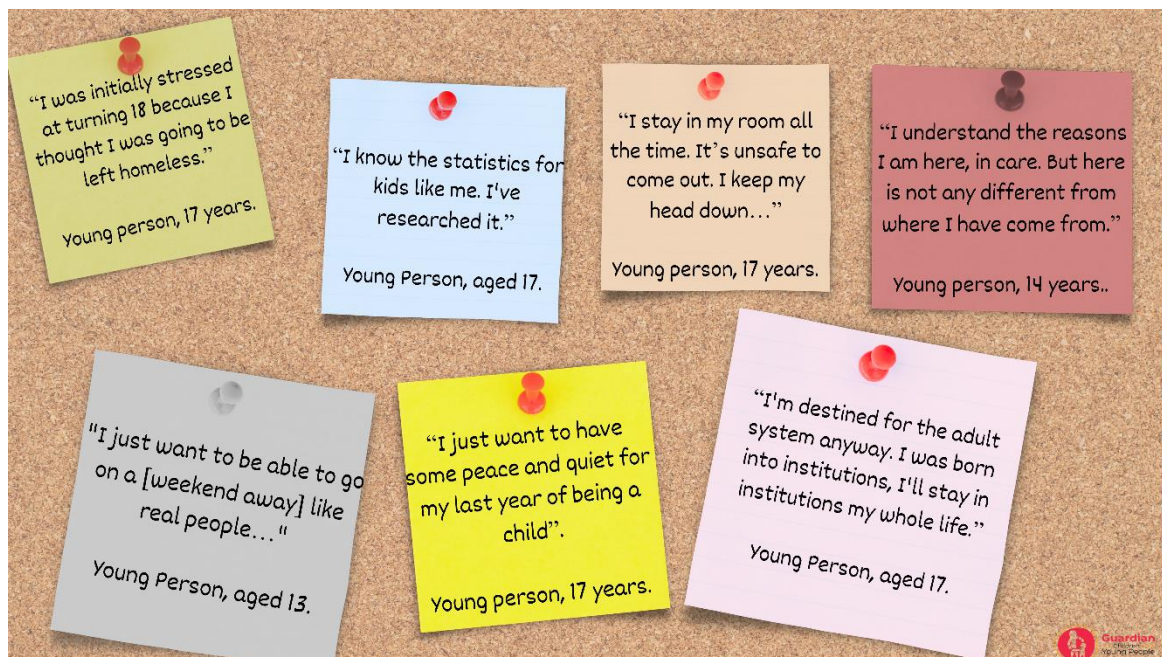
of the housing crisis, which is particularly stressful for young people in care due to the time pressures and possibility of exiting care into homelessness.

Young people report minimal planning or communication about their futures. Of the 46 young people visited who were 16+, only 10 reported confidence/knowledge in their transition from care planning and skills. Of these 10, only four had clarity regarding their housing once leaving care.

"I don't even answer my phone anymore, coz it's always just someone telling me that nothing is happening" – 18yo.

"I had to stop caring. I can't care about (housing) coz nothing happens. So now I just hang out, play my video games and then I don't get upset" – 18yo.

SLIDE 11



Let me also touch on a social phenomenon that occurs here in SA and across our nation... it's not new, and many jurisdictions are attempting to deal with this, but I still need to talk about it: **Care Criminalisation**.

While young people in care account for 1% of the child population, more than one in three young people held in youth justice detention on an average day are in care.

My firm belief – and I know I'm not alone – is that homes should be places where young people can learn how to experience and process emotions safely. This ensures they can engage constructively and appropriately in society as they grow.

Young people in residential care do not have this luxury. Too often, the moment they escalate in their 'home' environment – because they are scared, have a trauma response, become dysregulated – they risk contact with the youth justice system through other young people or carers calling for SAPOL attendance.

SLIDE 12



Young people's contact with police may begin at early ages. Over the course of the program operations, Visiting Advocates met young people who had encountered police in the following contexts:

- Being picked up on a 'Missing Person Report': although it is not a crime to run away from a property (unless there are bail arrangements in place) police may be the ones to collect a young person on MPR. Visiting Advocates heard young people refer to the photo which may be attached to their MPR as a "mug shot".
- Forensic interviews: depending on the circumstances, some young people have been interviewed due to the reasons for their removal from their parents' care.
- Being interviewed as the victim of a crime: sadly, this may have been due to being a victim of sexual exploitation.
- Police attending the house in response to another young person's behaviour: this could be complicated for young people, who may have felt scared of the other young person but may also find the presence of police in their house confronting.

Young people spoke of the police being used as a behaviour management tool, often being utilised as a first response, rather than carers supporting them to navigate complex emotions and outbursts.

SLIDE 13



Residential care settings are governed by a set of rules and standards designed to ensure the safety and well-being of children.

These rules cover various aspects of care, including staffing ratios, training requirements for caregivers, health and safety protocols, and mechanisms for children's participation in decisions affecting their lives.

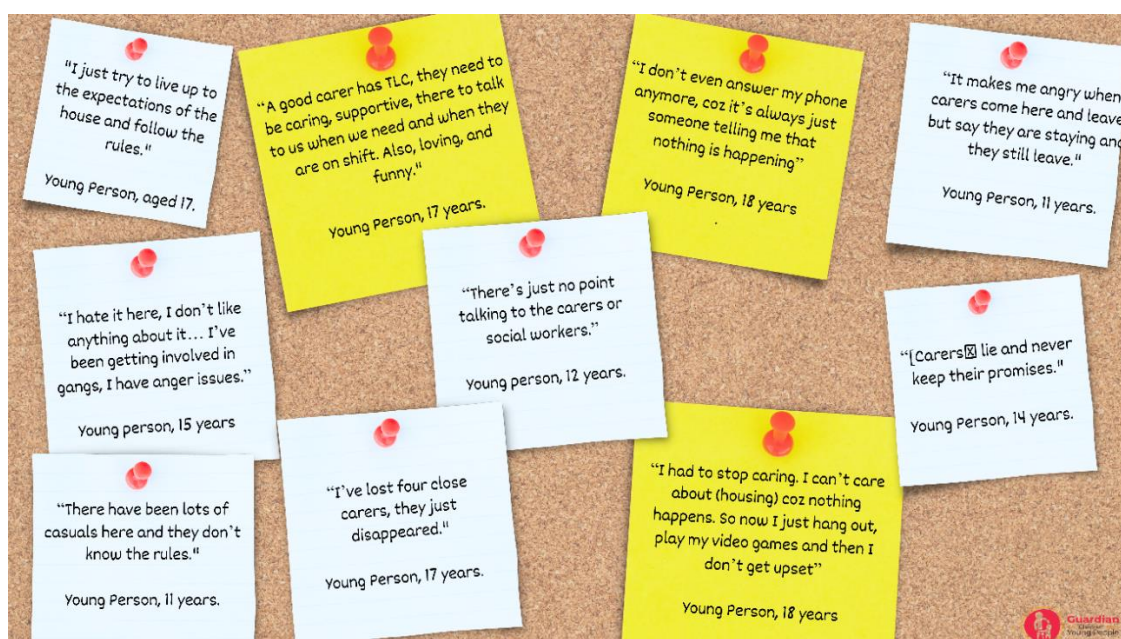
However, the enforcement of these rules can be inconsistent, and the quality of care can vary significantly between different facilities.

Children and young people have a lot to say about the rules they live by – especially they talk about the rules being there to benefit the workforce and not necessarily to benefit them.

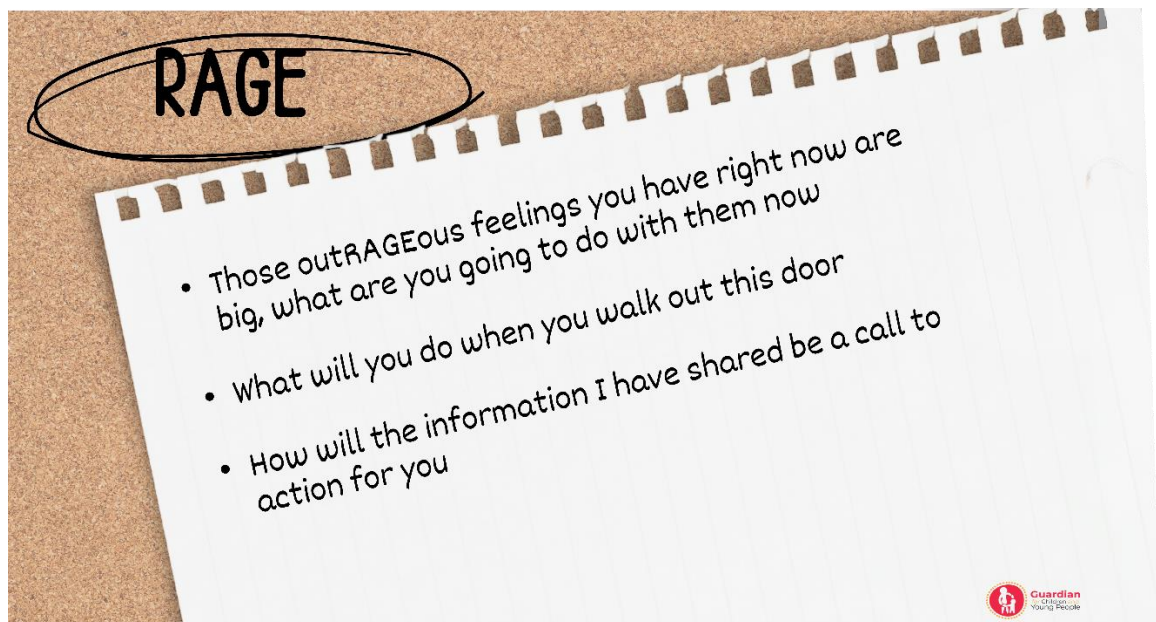
The existence of some rules make living in residential care almost 'unbearable' and kids talk about becoming 'institutionalised'.

Have a read of some of the things children and young people talk to us about as they relate to 'rules'.

SLIDE 14



SLIDE 15



I suppose I put this word in here to get your attention. But, also, I used the word 'rage' because behind each of the quotes on these slides today, there are children and young people's feelings.

And 'rage' is the tone we hear when these words are spoken.

I can confidently say that children and young people are not sharing their words in a monotonic manner. They are sharing their outrage that they, through no fault of their own, have been taken into care. They have been placed in an institution that constantly tries to make them conform to a ritualistic life that is filled with strangers, conflict, tension, and rules.

I suppose what I would like you to feel is a little bit of this very human emotion called rage. I would like you to think about what role you play in either facilitating the ongoing rage-like feelings or what role you play in dismantling it.

I know there are many people looking at how to make the residential care sector better. I see it every day. But every day, every single night that goes by, these children and young people need to live through this.

So, in signing off, I wanted to say... that I will be doing my darnedest to bring voice and awareness about what children and young people go through every minute, hour, and day in these places, to those that need to hear it.

I will work with whoever I need to work with to ensure children and young people's fundamental right to grow up in a loving nurturing family is upheld.

I guess I ask you to know that those big feelings you have inside of you today when you saw those quotes and words from children and young people... well, those same children and young people also have those big feelings.

The difference is that you and I get to go home and have agency over our lives. They don't.

We know that this is all fixable, and that's how we can and should use the privilege of that agency we hold. We need to go about fixing it.

SLIDE 16



SLIDE 17

