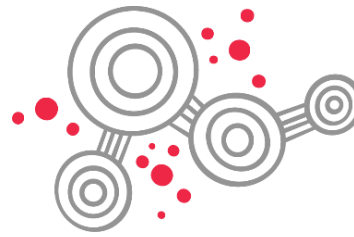




Guardian
for Children and
Young People



**Training
Centre
Visitor**

Economic and Finance Committee
Postal Box Number
TARNTANYA SA 5001 (or other appropriate)

C/O Ms Jessica Watson, Committee Secretary
Email: EFC.Assembly@parliament.sa.gov.au

Tuesday, 4 June 2024

Dear Committee members

RE: The Economic and Finance Committee Inquiry into Home Care for Children and Young People

I am writing to you regarding your current Inquiry into Home Care for Children and Young People, in my capacities as South Australia's Guardian for Children and Young People, Child and Young Person's Visitor, Training Centre Visitor and Youth Treatment Order Visitor.¹

As the independent oversight body for the out-of-home care (OOHC) system in South Australia, I have a deep interest in matters related to child protection expenditure. Since commencing my role as Guardian for Children and Young People in August 2022, I have advocated for government to direct significantly increased expenditure towards the full continuum of child protection services in South Australia. This includes family supports that help children and young people stay at home where it is safe and possible to do so; to creating a strong family-based care sector; and ensuring high quality of care for children and young people living in all OOHC arrangements, including residential care.

I regret workforce capacity issues (due to the lack of investment in my oversight functions) has impacted the timeliness and ability to prepare a written submission for this inquiry prior to the closing date in April 2024. However, I would like to note for the Committee's consideration that, if you consider my expertise may assist your Inquiry, I would be pleased to attend a hearing as a witness.

For your consideration, I have enclosed a copy of a report I published in 2023 regarding child protection indicators, which may be of relevance to the Inquiry. A key focus of that report was identifying and analysing legislative and funding arrangements in South Australia which have contributed to significant growth in South Australia's OOHC population in recent years.

¹ Information about each of these roles is available on my website, at www.gcyp.sa.gov.au.



Aligned with numerous sources, my report notes the imbalance in child protection expenditure in South Australia, with 80% of that expenditure directed towards care services – compared to approximately 60% nationally. As discussed in my report, this imbalance arises from a combination of:

- low per capita funding directed towards protective intervention services, family support services and intensive family support services
- a high per capita rate of children and young people in care (second highest nationally) and residential care (highest nationally).

While noting this imbalance, my report highlights that any attempts to resolve the issue through a cost-cutting lens (ie, reducing the cost of care per child) will only exacerbate South Australia's challenges in this space.

South Australia's child protection expenditure is quite clearly felt on an economic level for the state. Yet, I strongly believe that the solution does not lie in economic perspectives or modelling; it lies in a commitment to human rights. To promoting the rights of children to live with their families, wherever this is safe and possible; the rights of children to be safe, supported and healthy, and receive special assistance when they have experienced trauma; and the rights of First Nations children and families to self-determination, and to experience, celebrate and practice culture.

Human rights and South Australia's economic interests are, fortunately, aligned on this topic. However, that does not mean the challenge can be tackled equally from either perspective. Promoting human rights will lead to economic benefits, through health and social services savings and the increased productivity associated with improved socioeconomic outcomes for the South Australian population. However, when it comes to reform efforts, my experience is that the greater the focus on reducing costs, the more elusive achieving that goal becomes.

In addition to the findings of that report, I have highlighted below other matters I would be in a position to address in oral evidence, to inform the Committee's Inquiry.

1. A child-focused lens on promoting family-based care arrangements

On reading the terms of reference for the inquiry, I note that there is a considerable focus on family-based carers, including recognising their economic and social contribution and innovative models to attract and support kinship and foster carers.

I presume the intent of this focus is about increasing the availability of family-based carers and stability of those care arrangements for children and young people in care – which, in turn, may reduce the number of children and young people placed in residential care houses. This is aligned with findings from recent inquiries in South Australia, particularly around increasing financial support for family-based carers.²

² For example, *Findings of the Coronial Inquest into the Death of Zhane Andrew Keith Chilcott*, 6 April 2023, [24.10]; Fiona Arney, *Independent Inquiry into Foster and Kinship Care* (2022), recommendation 29.

While I support that intent, I note the importance of taking a holistic and child-centred approach to identifying why South Australia has such a high proportional reliance on residential care over family-based care arrangements. This includes considering a broader range of methods for promoting safe family-based care arrangements, with a primary focus on what children and young people need to thrive in these environments.

Relevant considerations include:

- Strategies to both prevent and respond to child abuse and wellbeing concerns arising in family-based care environments – both for children and young people living with birth families, and within kinship and foster care arrangements
- Prioritising trauma recovery for children and young people who have been abused, neglected or maltreated – including through identifying and responding to gaps in therapeutic programs and services³
- Recognising that the quality of care a child or young person receives in the placement is the best early intervention and prevention strategy in reducing the likelihood of intergenerational removals
- Building and supporting family, sibling and community connections for children and young people in care
- Addressing systemic discrimination which contributes to the institutionalisation of Aboriginal children and young people, and those with disability. This institutionalisation continues to occur through overrepresentation in residential care placements and youth detention
- Gaps in advocacy supports for children and young people in various OOHc arrangements
- Reducing the rate at which children and young people in residential care are admitted to youth detention, as an important mechanism for maximising opportunities for successful family-based placements
- Remaining mindful of the consequences of child protection reform upon the stability and wellbeing of children and young people in care.

A child-focused lens which places primacy on the above matters offers an alternative perspective: that supporting children and young people in care (and who are living with their families) is the best way to support the stability of family-based care arrangements – and reduces the need for ‘innovative’ foster care models.

Adopting this lens sheds a different light on the first term-of-reference to the inquiry, regarding ‘the long-term economic and social costs of supporting children in and out of home care’ [sic]. Instead, it promotes a perspective on the *benefits* we can achieve by fully supporting children in care – which is inclusive of any projected intergenerational social and economic benefit.

³ For example, my *Guardian 2022-23 Annual Report* (p. 37) discusses my advocacy regarding access issues to the Intensive Therapeutic Care Program (ITCP) which sits within the Yarrow Place Rape and Sexual Assault Service. The ITCP provides clinical services for young people aged 12-25 years and under guardianship (at the time of referral), who are running away from care and/or at risk of sexual exploitation.

2. The Aboriginal and Torres Strait Islander Child Placement Principle

In past years, there has been an alarming increase in the number of Aboriginal children and young people living in residential care houses.⁴ This is inconsistent with South Australia's expressed commitment to the intent of the Aboriginal and Torres Strait Islander Child Placement Principle (ACPP).

The ACPP operates as an interconnected set of principles, challenging key structural elements of government services that routinely deny self-determination and cultural rights for Aboriginal children, families and communities. Effective implementation of the ACPP requires governments to take active efforts⁵ to embed the following five elements throughout all aspects of child protection practice and the delivery of other government services:

1. **Prevention:** Protecting children's rights to grow up in family, community and culture by redressing the causes of child protection intervention.
2. **Partnership:** Ensuring the participation of community representatives in service design, delivery and individual case decisions.
3. **Placement:** Placing children in out-of-home care in accordance with the established ACPP 'placement hierarchy'.
4. **Participation:** Ensuring the participation of children, parents and family members in decisions regarding the care and protection of their children.
5. **Connection:** Maintaining and supporting connections to family, community, culture and country for children in OOHC.⁶

The foundational premise of the ACPP is that removing Aboriginal children and young people from their families should only be a matter of last resort – and that culture is a protective factor, not a risk factor. Children have a fundamental human right to grow up with their families, and governments have an obligation to provide families with the financial, social and other supports needed to ensure children have the best possible care, without discrimination, within their families and communities. In fact, we know that children who grow strong in their culture have greater outcomes into their future.

Where children and young people are genuinely in need of care outside of their families, the ACPP calls for policies, practices and legislation that recognises the imperative for Aboriginal children to maintain every opportunity to live with and stay connected with their family, culture and community.

Under the ACPP, residential care placements should be a last resort for children and young people. As such, the Department for Child Protection (DCP) has a particular focus on attempting

⁴ My 2023 report on child protection indicators – based on data from the Report on Government Services 2023 – included analysis regarding the number of Aboriginal children and young people in care. See, Office of the Guardian for Children and Young People (OGCYP), *Child Protection in South Australia from the Productivity Commission's Report on Government Services 2023* (2023), pp. 3, 34-6.

⁵ SNAICC – National Voice for our Children (SNAICC) defines 'active efforts' as 'purposeful, thorough and timely efforts that are supported by legislation and policy and enable the safety and wellbeing of Aboriginal and Torres Strait Islander children': SNAICC, *The Aboriginal and Torres Strait Islander Child Placement Principle: A Guide to Support Implementation* (2019), p 4.

⁶ These definitions of the five elements are reproduced (with minor variation) as they appear in SNAICC, *Understanding and Applying the Aboriginal and Torres Strait Islander Child Placement Principle: A Resource for Legislation, Policy, and Program Development* (2017), p 3.

to move Aboriginal children and young people out of residential care houses and into family-based care arrangements. While I support the intent of these actions, it is important to ensure that strategies incorporate and align with all elements of the ACPP – including:

- participation in decision-making by Aboriginal children and young people, their families and communities
- building, maintaining and reestablishing connection to culture, family and community for Aboriginal children and young people – which is a fundamental component of identifying and supporting family-based care opportunities, including through building their place and sense of identity within those networks
- regularly exploring reunification options, including for older adolescents self-placing from residential care with their parents.

It is also important to remain mindful that sourcing family-based placements for Aboriginal children and young people living in residential care is only one piece of the puzzle; resources and efforts need to equally be directed towards preventing those placements occurring in the first place.

This is equally said for the scoping and investigation of kinship placements throughout the entire period of OOHC experiences for Aboriginal children and young people. Often scoping for family ceases after a child or young person settles into a placement (whether its kin, other family-based or residential care). It is imperative – and aligned with the intent of the ACPP and best practice standards – that continued scoping, increased contact with and cultural connection is seen as investment in the child’s care experience and life outcomes.

3. South Australia’s implementation of recommendations from the 2016 Child Protection Systems Royal

Eight years post the 2016 *Child Protections System Royal Commission*, significant work remains to implement recommendations made by the Hon Margaret Nyland, in full.

In many ways, this is unsurprising; the recommendations of that commission were extensive, and required a fundamental shift in how South Australia approached protecting and supporting children and young people.

A large portion of recommendation implementation occurred through the enactment of the *Children and Young People (Safety) Act 2017* (the *CYP Safety Act*). This new legislation significantly altered the framework guiding child protection practice in South Australia, with the increased focus on physical safety and permanency outcomes of particular note.

While this legislative change represented significant progress in contemporising South Australia’s child protection efforts, it is important to ensure we don’t treat this work as ‘done’ and lose sight of the full scope of recommendations. The Nyland report put forward a vision for simultaneously working to address issues across the continuum of child protection services – ranging from family supports in the home (prior to consideration of statutory removal), through to quality of OOHC services for those children and young people who do enter care.

The key challenge in meeting that vision, is that each piece relies upon another.

It is unfortunate to observe that the approach to implementing Nyland recommendations has focused on legislative change and policy guidance, rather than real investment and structural change to address the root causes of issues and the intent of the recommendations.

By way of example, my 2023 child protection indicators report analysed the connection between the rising care population in South Australia, and legislative settings under the *CYP Safety Act* that encourage:

- risk-adverse statutory intervention approaches, through placing primacy on protecting children from physical harm above other child rights; and
- permanency outcomes through placing children on long-term guardianship orders, and ending reunification efforts.⁷

While these legislative changes were referable to relevant Nyland findings and recommendations, it is important to understand the context in which they were made – and interrelated recommendations that have not been implemented. This includes to:

- enable easier access to family support services, and divert children and young people away from statutory intervention services
- improve placement safety and stability for children and young people in care, through strategies such as:
 - reducing temporary care arrangements with carers who had not been fully assessed and
 - improving the environment of residential care through reduced numbers and ensuring young children were not housed in these arrangements.⁸

The legislative changes were the easy part; the harder part was finding the money, infrastructure and workforce to change departmental culture and practice. It is entirely unsurprising that progressing the former without sufficient planning, capacity or efforts to implement the latter has created unintended consequences – namely, increased numbers of children and young people entering OOHC, when the safety and stability of those OOHC arrangements have received insufficient attention.

Conclusion

I feel great optimism that this Parliamentary Inquiry is underway, with a particular focus on OOHC expenditure and improving the availability and sustainability of family-based care arrangements. It is my deep hope that this inquiry will review the established evidence about the consequences of South Australia's approach to child protection expenditure, and provide an important missing ingredient: a plan for putting government money in the right places to properly implement known solutions to make things better for children and young people.

⁷ See OGCYP, *Child Protection in South Australia from the Productivity Commission's Report on Government Services 2023* (2023), pp 12-25.

⁸ For a discussion of the implementation status of these recommendations, see my *Guardian 2022-23 Annual Report*, pp 34-5.

Please do not hesitate to contact me if you have any queries about the information in this letter and my enclosed 2023 report, or if you determine it would be valuable to invite me to provide oral evidence at a hearing related to the Inquiry, I would be most happy to present in person. You are welcome to contact me directly, or via my Principal Policy Officer, Alicia Smith, at alicia.smith2@sa.gov.au or on (08) 8226 8570.

With kind regards



Shona Reid

Guardian for Children and Young People
Training Centre Visitor
Child and Young Person Visitor
Youth Treatment Order Visitor

*Enclosed: Office of the Guardian for Children and Young People, *Child Protection in South Australia from the Productivity Commission's Report on Government Services 2023 (2023)*