

ANNUAL REPORT 2009-10

THE CHILDREN'S GUARDIAN



Communities



The Hon. Amanda Fazio, MLC
President
Legislative Council
Parliament House
SYDNEY NSW 2000

The Hon. Richard Torbay, MP
Speaker
Legislative Assembly
Parliament House
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 187 and 190 of the *Children and Young Persons (Care and Protection) Act 1998*, I am pleased to present the Children's Guardian's annual report for the 2009-2010 financial year.

The annual report has been prepared in accordance with the *Annual Reports (Departments) Act 1985* (as modified by the *Children and Young Persons (Care and Protection) Act 1998*, the *Annual Reports (Departments) Regulation 2000* and the *Public Finance and Audit Act 1983*.

As provided by section 190(2) of the *Children and Young Persons (Care and Protection) Act 1998*, I recommend that the report be made public forthwith.

Yours sincerely



Kerry Boland
Children's Guardian

THE CHILDREN'S GUARDIAN

ANNUAL REPORT 2009-10

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CHAPTER 1

CHILDREN'S GUARDIAN'S MESSAGE

The year 2009-10 has seen significant changes to the operations of the New South Wales Children's Guardian.

The Children's Guardian has been part of Communities NSW (CNSW) since 1 July 2009. The merger was welcome and provides my office with access to an improved level of corporate and technological services. This has benefited us in implementing the many changes we made this year. I continue to report to the Minister for Community Services and independently exercise my statutory functions.

The Government, as part of *Keep Them Safe*, provided the Children's Guardian with additional resources to develop and oversee the voluntary out-of-home care (VOOHC) system and the VOOHC Register. VOOHC is out-of-home care arranged between a parent of a child or young person and an organisation accredited by, or registered with, the Children's Guardian. It commonly involves children and young people with a disability.

VOOHC legislation commenced on 24 January 2010 and is currently being rolled out over a 12 month transitional phase, with the

VOOHC Register to commence operating later this year.

The new VOOHC system will reduce drift in VOOHC, promote parents having access to relevant information and participating in planning care and decision-making, and improve the consistency and quality of VOOHC intake, assessment, case planning and interagency coordination arrangements.

The year also saw the finalisation of the streamlined *NSW Standards for Statutory Out-of-Home Care* (OOHC), which have been updated to reflect contemporary practice and current research and legislation. The *Standards* are reduced in number from 50 to 22 and divided into four quality areas, eliminating duplication in the previous *Standards* without reducing the quality of care required to achieve accreditation. They have a greater focus on the rights of children and young people, are strengths based, and encourage continuous improvement.

The revised *Standards* and the associated tools and procedures were piloted with three agencies undergoing reaccreditation in 2009-10. The *Standards*, which were developed in consultation with the OOHC sector and 41 children and young people in residential care, have received strong stakeholder support. They were also independently reviewed by the Australian Council for Educational Research (ACER), which has an international reputation for developing quality assurance systems. ACER said:

"The structure and layout of the [Standards] is exemplary, and makes it very easy to identify the underlying structure of ideas. It could easily be used as a model for other Standards documents".

The revised *Standards* became fully operational on 1 July 2010 and are available in e-book format on the Children's Guardian website www.kidsguardian.nsw.gov.au

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AGENCIES NOW ACCREDITED, AN INCREASE FROM 40 LAST YEAR, WHICH LEAVES ONLY EIGHT IN THE QUALITY IMPROVEMENT PROGRAM (QIP) ON INTERIM ACCREDITATION

To showcase good practice and encourage others to work toward better outcomes for children and young people in statutory care, the Children's Guardian is now developing a new continuous improvement program for accredited agencies, which will be made available in early 2011.

This new program will integrate the accreditation program with a continuous improvement incentive program focused on key child wellbeing factors. The regulatory methods used by the Children's Guardian to assess agencies will now use both input/output data and outcome indicators.

This year saw the number of accredited agencies increase to 48 (from 40), leaving only eight agencies in the Quality Improvement Program (QIP), including six non-government agencies and the two government providers of statutory care. The Children and Young Persons (Savings and Transitional) Regulation 2000 requires QIP agencies to be accredited by July 2013. Community Services and Ageing, Disability and Home Care (ADHC) play a vital role in

the NSW OOHC system and it is of critical concern that their progress towards accreditation continues to be slow.

In 2008, the Children's Guardian recommended to the *Special Commission of Inquiry into Child Protection Services in New South Wales* that it would be in the best interests of children and young people in statutory care for more of them to be cared for in the non-government sector. *Keep Them Safe* supports the gradual transition of care to the non-government sector, where almost all agencies are accredited and meet the NSW Standards. The transition will also assist Community Services to move more rapidly toward meeting the *Standards*.

Community Services is the largest provider of statutory care, with responsibility for approximately 85 per cent of children and young people in the NSW OOHC system. The Children's Guardian has therefore put in place an intensive assessment program targeted at critical program areas and Community Service Centres in an effort to support accelerated Community

Services compliance with the Standards.

It is also essential that ADHC maintains its status as a designated agency, to support its pivotal supervisory role in respect of longer-term VOOHC arrangements for children and young people with a disability.

In 2006-07, the Children's Guardian reviewed over 2 100 case files of children and young people in statutory care to provide a statistically valid baseline for measuring future improvements in casework practice. This baseline enabled the Children's Guardian to focus on areas of risk and use the results to 'leverage' better performance in areas of child wellbeing. A five year program of audits was established:

- 2007-08 Case File Audit targeted children and young people in risky placements or low performing non-government agencies
- 2008-10 Case File Audit (two year cycle) focussed on the health care needs and health supports provided to children and young people in statutory care



Children's Guardian Kerryn Boland with former Prime Minister Kevin Rudd and Therese Rein.

- 2010-12 Case File Audit (two year cycle) will focus on education needs and education supports provided to children and young people in statutory care
- 2012-13 Case File Audit will focus on the connections children and young people in statutory care have with their community.

In 2008-10, the Case File Audit had a particular focus on health issues. In determining this priority, the Children's Guardian sought advice from specialists in the OOHc clinics at Randwick, Westmead and Newcastle children's hospitals and the KARI Clinic. A total of 3 448 case files have been reviewed and a special health report will be released at the end of 2010. The information collected in this Audit is also being used by NSW Health to assess the clinical needs of kids in OOHc (a *Keep Them Safe* project). The results from this Audit will also greatly assist non-government agencies and Community Services to improve, develop and implement health plans for each child in care, as provided for under *Keep Them Safe*.

The Commonwealth Department of Families, Housing, Community Services and Indigenous Affairs (FaHCSIA) released a Consultation Paper in January 2010, which sought submissions on the framework for National OOHc Standards. The Children's Guardian provided a substantial submission outlining how such Standards might be developed, measured, monitored and reported on and how they could relate to the NSW *Standards*. Many of our suggestions were reflected in the Draft National Out-of-Home Care Standards and principles released in July 2010.

During 2010, the Children's Guardian also reviewed the operation of the Children and Young Persons (Care and Protection - Child Employment) Regulation 2005, which is scheduled for repeal in September 2010 in accordance with the Subordinate Legislation Act 1989.

In June 2010 the Children's Guardian released an exposure draft of the Children and Young Persons (Care and Protection) (Child

Employment) Regulation 2010 and a Regulatory Impact Statement (RIS) for public comment.

Proposals canvassed in the RIS and exposure draft are to:

- Change the current combined school and work time limit in line with international research
- Change the calculation of work time
- Increase the travel time allowance so as not to disadvantage children and young people living outside the Sydney metropolitan area
- Increase the maximum number of employment days allowed for some children
- Increase the employer authority fee discount for employers with proven commitment to the Code of Practice set out in the Regulation
- State more explicitly what is expected of employers when they are assessing risks and the appropriateness of a role for a child when they are submitting pre-employment notifications to the Children's Guardian.



In the first quarter of 2010-11, the Children's Guardian will assess public submissions and put final proposals to the Minister for Community Services on the remaking of the Child Employment Regulation.

The Children's Guardian also continues to increase stakeholder and community awareness of its roles, with a significant increase in the number of staff visits to agencies and attendance at sector events to promote the best interests of children and young people in OOHC and child-related employment. As part of this awareness raising work, the Children's Guardian initiated and coordinated the Australian Children's Commissioners and Guardians' development of a picture book of children's art titled *How Australian Children See the World*. The book was issued to commemorate the 25th Anniversary of the United Nations Convention on the Rights of the Child. Copies are available on the Children's Guardian website.

In 2010-11, the Children's Guardian will:

- Continue the statewide launch of the VOOHC system and commence operation of the VOOHC Register
- Ensure statutory care accreditation and monitoring systems are aligned with the National OOHC Standards, which are currently being finalised
- Introduce a new continuous improvement program for agencies accredited to provide statutory care
- Report on the results of the health care Case File Audit and commence a two year education-focused audit
- Improve coordination between the monitoring functions of the Children's Guardian, Children's Court and Official Community Visitors

- Reform the tools, procedures and methods the Children's Guardian uses for regulating children's employment under the new Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010, and
- Undertake community consultation on the merits or otherwise of regulating broader classes of children's employment, including unpaid employment.

Kerry Boland
Children's Guardian

OVERVIEW OF OUR PERFORMANCE IN 2009-2010

Key Result Areas	The best interests of children and young people in out-of-home care and those placed for adoption are promoted and safeguarded	
Outcome	Out-of-Home Care Children in out-of-home care and those awaiting adoption are in the care of safe, well-functioning agencies.	Case File Audit Program Designated agencies are monitored to provide safe and well-functioning placements.
Highlights	<ul style="list-style-type: none"> ■ 85 per cent of all designated agencies achieved accreditation ■ New accreditation system successfully piloted ■ Developed revised <i>NSW Standards for Statutory Out-of-Home Care</i> ■ Voluntary out-of-home care legislation introduced. 	<ul style="list-style-type: none"> ■ 2008 Case File Audit of 3448 case files completed ■ Case File Audit results informed NSW Health OOHC clinical assessment policy and <i>National Clinical Assessment Framework for Children and Young People in Out-of-Home Care</i>.
Results	<ul style="list-style-type: none"> ■ 32 agencies accredited for five years ■ 16 agencies accredited for 3 years ■ Eight agencies participating in QIP ■ 94 agencies confirmed to arrange or provide voluntary out-of-home care. 	<ul style="list-style-type: none"> ■ 51 agencies participated in the Audit ■ 2 124 files were audited in Phase 1 (2008-09), and 1 324 files in Phase 2 (2009-10) ■ 2 248 files were audited across Community Services' seven regions ■ 1200 files were audited in non-government agencies.
Challenges	<ul style="list-style-type: none"> ■ Ensuring relevant content addressed in revised <i>NSW Standards for Statutory Out-of-Home Care</i> and supporting material ■ Shifting from desk-based assessments to increased on-site assessments ■ Working with agencies in the QIP to develop individual programs to meet accreditation criteria ■ Implementing voluntary out-of-home care reforms with a diverse sector that has never had a common regulatory framework. 	<ul style="list-style-type: none"> ■ Expanding the Case File Audit tool to meet additional needs of NSW Health ■ Managing volume of case files needing to be audited to ensure audit is representative of statutory out-of-home care populations.
Future Direction	<ul style="list-style-type: none"> ■ Implement the revised Standards and updated assessment process across the sector ■ Increase site visits ■ Develop a program to recognise the continuous quality improvement work of accredited agencies ■ Improve coordination with Official Community Visitors ■ Complete rollout of voluntary out-of-home care reforms ■ Work with the sector in implementing <i>Keep Them Safe</i> reforms. 	<ul style="list-style-type: none"> ■ Ensure effective integration of Case File Audit Program and performance monitoring system for National Out-of-Home Care Standards ■ Conduct an audit that focuses on the education of children and young people in statutory out-of-home care ■ Monitor Community Services performance in identifying and progressing victims compensation claims.
Chapter Reference	Chapters 3 and 5	Chapter 4



Highlights for 2009-10

When looking through this Report, keep an eye out for this symbol which points to highlights for the Children's Guardian in 2009-10

The best interests and rights of children employed in prescribed industries are promoted and safeguarded

Children's Employment

Employers of models under 16 years and children under 15 years in prescribed industries are authorised and abide by the Code of Practice.

- Record number of employer applications and productions notified
- Draft *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010* and Regulatory Impact Statement released for comment
- New employer/production database implemented.

- 185 applications for employer authorisations – 99 per cent processed within set timeframe
- 912 productions monitored for compliance with Code of Practice
- 26 visits to productions
- 28 productions investigated for possible breaches of Code.

- Ensuring employers are aware of, and comply with, child employment legislation
- Managing increasing volumes in applications and notifications from employers.

- Finalise and implement the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010
- Develop parent/child information packages that more clearly explain child employment legislation
- Develop policy options for the possible inclusion of unpaid work and work in other industries
- Review the continuing relevance of the child employment legislation to the door-to-door sales industry
- Streamline pre-employment assessment processes to absorb increasing workloads.

Chapter 6

Policy Development

The Children's Guardian contributes to the development of policies that promote the best interests of children and young people in out-of-home care, placed for adoption and in prescribed employment.

- Voluntary out-of-home care regulatory framework developed
- Contributed to development of the draft National Out-of-Home Care Standards framework
- Informed Commonwealth policy on the development of broadcasting codes for child participants in commercial radio programs
- Gave presentation at the International Conference "Linking Global Foster Care".

- 19 recommendations for legislative change approved by government
- Contributed to nine policy reviews or investigations and the development of five NSW/Commonwealth Strategies and Plans
- Commissioned or supported five research projects
- 26 presentations given at conferences, seminars or forums.

- Managing effective consultation with key government and non-government partners
- Developing a flexible regulatory framework for voluntary out-of-home care that is compatible with NSW and Commonwealth funded voluntary out-of-home care programs.

- Refine, fully implement and monitor the voluntary out-of-home care regulatory framework
- Ensure alignment between National Out-of-Home Care Standards framework and Children's Guardian's activities in NSW
- Work with Community Services and the non-government sector to transfer additional responsibility for statutory out-of-home care to the non-government sector
- Finalise Memorandum of Understandings (MOUs) with Official Community Visitors and Community Services
- Improve coordination with the Children's Court.

Chapters 7 and 8

CHAPTER 2

ABOUT THE CHILDREN'S GUARDIAN

The Children's Guardian regulates the provision of out-of-home care, non-government adoption services and the paid employment of children under 15 years of age (and child models under 16 years of age) in specific industries.

The Children's Guardian promotes and safeguards the rights of children and young people who are in out-of-home care or placed for adoption in NSW.

Values

The **values** of the Children's Guardian are:

- **Respect for children and young persons and their diversity**
 - We respect and value children and young persons and their diversity.
- **Participation of children and young persons**
 - We involve children and young persons in our activities and decisions.
- **Cooperative partnerships**
 - We consult with our partners to achieve shared outcomes.
- **Staff contribution**
 - We encourage innovation, teamwork, continuous improvement and learning.
- **Strong organisational foundation**
 - We seek the best available information and efficiently undertake thorough

analysis on which to base our decisions and provide timely, objective advice.

■ Partnerships with Aboriginal people

- We support and promote the principles of reconciliation and partnership when working with Aboriginal people.

Legislative Functions

The Children's Guardian's principal functions under the *Children and Young Persons (Care and Protection) Act 1998* ("the Act") are to:

- Promote the best interests of all children and young people in out-of-home care
- Ensure that the rights of all children and young people in out-of-home care are safeguarded and promoted
- Accredit designated agencies (agencies that arrange the provision of statutory out-of-home care to children and young people) and monitor their responsibilities under the Act and regulations
- Register agencies to arrange or provide voluntary out-of-home care for children and

young people, and develop voluntary out-of-home care procedures for intake, assessment, case planning and interagency coordination

- Authorise employers to employ children under 15 years of age (under 16 years of age for child models) for reward in the entertainment, exhibition, still photography and door-to-door sales industries (functions delegated by the Minister for Community Services and Director-General of the Department of Human Services).

The Children's Guardian has a range of other functions under the Act, including developing statutory guidelines for designated agencies on specific issues.

The frameworks for the Children's Guardian's Statutory Out-of-Home Care Accreditation and Quality Improvement Program and Voluntary Out-of-Home Care Program are provided for under the Children and Young Persons (Care and Protection) Regulation 2000 and the Children and Young Persons (Savings and Transitional) Regulation 2000.



The *Children and Young Persons (Care and Protection – Child Employment) Regulation 2005* establishes the framework for the regulation of children's employment. The Regulation includes a Code of Conduct that prescribed employers must comply with, unless the application of that Code is varied by the Children's Guardian.

The Children's Guardian is also responsible for accrediting and monitoring non-government adoption service providers under the *Adoption Act 2000* and *Adoption Regulation 2003*, under delegation from the Director-General of the Department of Human Services.

The Act requires the Children's Guardian to make an annual report to Parliament and authorises the Children's Guardian to make special reports to the Minister for Community Services and Parliament.

Background

The Children's Guardian is a statutory position established under the *Children and Young Persons (Care and Protection) Act 1998*, with the first Children's Guardian appointed in January 2001. The current Children's Guardian, Kerryn Boland, was appointed in October 2005.

The establishment of the Children's Guardian was first proposed in 1992 by the Ministerial Committee established to review substitute care services in NSW.

In 1997, the *Royal Commission into the New South Wales Police Service* again recommended the establishment of an independent body to assess the quality of out-of-home care. The 1997 Review of the *Children (Care and Protection) Act 1987* also recommended the establishment of the Children's Guardian.

The Children's Guardian developed an out-of-home care accreditation regime for statutory out-of-home care and trialled it with volunteers from the out-of-home care sector, before the Children's

Guardian's formal accreditation powers were proclaimed in July 2003, together with regulations that provided for the detail of the statutory out-of-home care accreditation and quality improvement system.

In November 2003, the Children's Guardian's functions were expanded to include the authorisation of the employment of children under 15 years of age for reward in the entertainment, exhibition, still photography and door-to-door sales industries. The Children's Guardian's child employment jurisdiction was extended to child models under the age of 16 in April 2009.

In 2004-05, the Children's Guardian commenced auditing the case files of a sample of children and young people in statutory out-of-home care, to monitor and report on compliance with the *NSW Standards for Out-of-Home Care* and care and protection legislation.

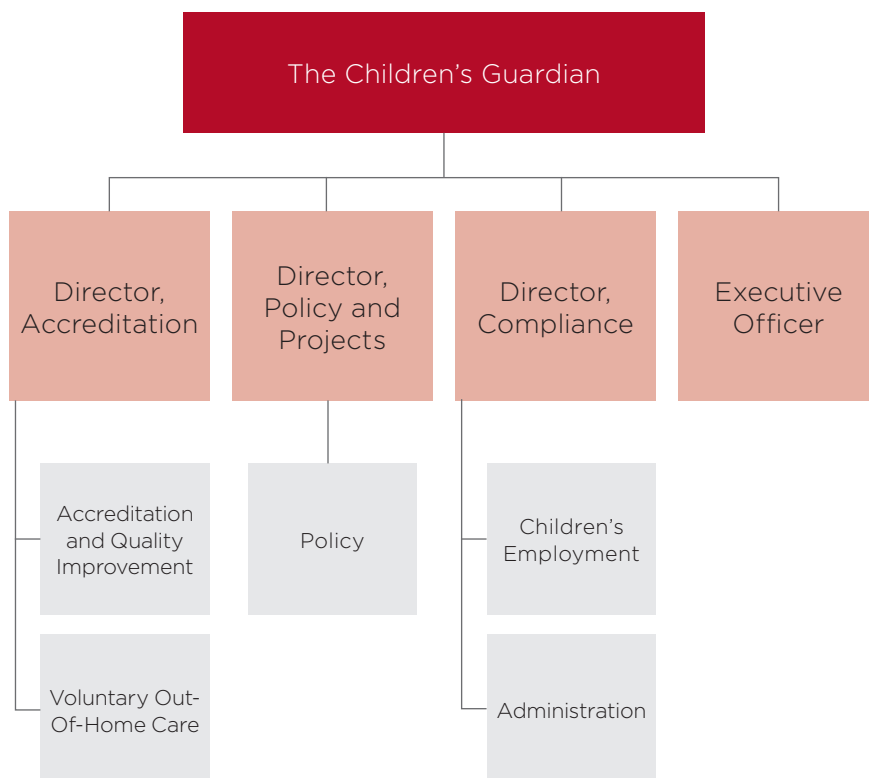
In July 2005, the Children's Guardian assumed responsibility for accrediting and monitoring non-government adoption service providers.

In 2007, the Children's Guardian reviewed the legislative and administrative frameworks for the Out-of-Home Care Accreditation and Quality Improvement Program (AQI Program). As a result, significant amendments were made to the Children and Young Persons (Care and Protection) Regulation 2000 to establish a more flexible and responsive strengths-based AQI Program. The revised program better supports the Children's Guardian's continuous quality improvement focus.

In November 2008, the *Special Commission of Inquiry into Child Protection Services in New South Wales* endorsed the Children's Guardian's existing functions and recommended the Children's Guardian oversee a new regulatory framework for voluntary out-of-home care. The NSW Government introduced voluntary out-of-home care legislation, which commenced on 24 January 2010, as part of *Keep Them Safe*.

The Children's Guardian has been part of CNSW since 1 July 2009, although the Children's Guardian continues to report to the Minister for Community Services and independently exercise her statutory functions.

Children's Guardian Structure and Staffing



THE ANNUAL REPORTING PROCESS

The 2009-10 Children's Guardian Business Plan is based on the Mark Friedman Results Based Accountability (RBA) model. RBA has gained increasing recognition both nationally and internationally and offers an effective platform for government departments, non-government agencies, community organisations and citizens to work together to promote the wellbeing of a community.

RBA offers a disciplined approach for strategic planning and taking action to improve the quality of life for communities. Our business plan has adopted this approach by clearly stating the results we aim to achieve in promoting the wellbeing of children and young people. It also provides us with a framework to measure the efficiency and effectiveness of our programs.

The RBA model uses three common sense performance measures:

- How much did we do?
- How well did we do it?
- Is anyone better off?

In keeping with our Business Plan, this annual report reflects the RBA methodology. The opening summary page of each chapter presents an overview of the work we have done this year, within the RBA Framework. Each chapter then provides detail about our programs and what we have achieved. Indicators have been used throughout the report to measure how successful we have been in achieving our stated results.

The Executive team

Kerryn Boland, Children's Guardian

Bachelor of Laws
Graduate Diploma
in Legal Practice

David Hunt, Director, Policy and Projects

Bachelor of Arts (Hons)
Bachelor of Laws (Hons)
Graduate Diploma
in Legal Practice

Tom Kenny, Director, Compliance

Bachelor of Engineering
Master of Engineering Science
Bachelor of Laws

Wendy Lawson, Acting Director, Accreditation

Certificate in Child Care Studies

Key stakeholders

The Children's Guardian's key stakeholders are:

- Children and young people in out-of-home care
- Children and young people placed for adoption
- Children and young people under the age of 16 in paid modelling employment
- Children and young people under the age of 15 in paid employment in the entertainment, exhibition, still photography and door-to-door sales industries
- Designated agencies

- Organisations registered to provide voluntary out-of-home care
- Non-government adoption service providers
- Prescribed employers of children
- Parents and carers of children and young people in out-of-home care, placed for adoption and in prescribed employment
- Organisations and people that work in the interests of children and young people in out-of-home care, adoption and prescribed employment, and
- Organisations and people that provide services to children and young people in out-of-home care, placed for adoption or that employ children.

CHAPTER 3

ACCREDITATION AND QUALITY IMPROVEMENT

Population

NSW children in statutory out-of-home care or awaiting adoption, designated agencies that provide statutory and supported out-of-home care, and non-government adoption service providers.

Outcome

Children in statutory and supported out-of-home care and those awaiting adoption are in the care of safe and well-functioning agencies.

Indicators

- The number of agencies accredited in 2009-10
- The number of interim accredited agencies on individualised programs
- The number of new agencies accredited
- Percentage of all agencies accredited
- Number of visits to support continuous improvement.

Partners

- NSW Department of Human Services
- Designated agencies
- Agencies that provide out-of-home care and adoption support services
- Agencies seeking accreditation
- Non-government adoption service providers
- NSW Ombudsman
- Official Community Visitors
- Peak Bodies (e.g. ACWA AbSec)
- Specialist out-of-home care clinics.

Baseline and achievements

In 2009-10, eight agencies were accredited by the Children's Guardian to provide statutory out-of-home care to children and young people in NSW, bringing the total number of accredited agencies to 48, which is 85 per cent of all designated agencies.

In 2009-10 four agencies participating in the QIP were accredited by the Children's Guardian. As at 30 June 2010, there were eight interim accredited agencies remaining in this Program. Designated agencies participating in QIP have until 2013 to achieve full accreditation.

Four agencies that were supported by individualised programs achieved accreditation in 2009-10 and four new applicants were accredited.

Did we make a difference?

The number of agencies accredited by the Children's Guardian to provide statutory and supported out-of-home care has steadily increased since 2004.

As at 30 June 2010, 85 per cent of all designated agencies had achieved accreditation. Thirty-two agencies that originally had interim accreditation are accredited for five years and one has accreditation for three years. Fifteen new organisations have accreditation for three years.

85

PER CENT OF ALL DESIGNATED AGENCIES HAVE ACHIEVED ACCREDITATION.

Overview

The Statutory Out-of-Home Care Accreditation and Quality Improvement Program is the Children's Guardian's principal means of promoting and safeguarding the best interests and rights of children and young people in statutory and supported out-of-home care. The *Children and Young Persons (Care and Protection) Act 1998* ("the Act") requires the Children's Guardian to accredit government and non-government agencies that arrange or provide statutory and supported out-of-home care for children and young people in New South Wales.

While the *NSW Standards for Statutory Out-of-Home Care* are used to accredit designated agencies to provide statutory care, the Act provides that only a designated agency can provide supported out-of-home care – care supported by Community Services where there are child protection concerns, but where the child's parents retain parental responsibility for the child.

Agencies that were providing statutory out-of-home care services at the time the accreditation scheme commenced in July 2003 were granted interim accreditation to enable them to continue providing care for children and young people while working towards accreditation.

The objectives of the Accreditation and Quality Improvement Program are to:

- Promote the best interests of children and young people in statutory and supported out-of-home care
- Assist designated agencies to meet standards of care and services for children and young people in statutory and supported out-of-home care
- Provide a reliable measure of designated agency compliance with accreditation criteria
- Be fair
- Be transparent
- Be uniformly applied across all designated agencies

- Deliver assessment decisions that reflect actual service quality
- Identify gaps between actual practice and best practice
- Provide designated agencies with feedback for improvement
- Provide ongoing monitoring of designated agency performance against accreditation criteria
- Be viewed by designated agencies and the out-of-home care sector as a valuable process.

Kerryn Boland presenting the Accreditation certificate to William Campbell, of William Campbell College



THE INCREASING NUMBER OF AGENCIES IN THE QUALITY IMPROVEMENT PROGRAM PROGRESSING TO FULL ACCREDITATION DEMONSTRATES THE COMMITMENT OF THE OUT-OF-HOME SECTOR TO IMPROVING THE QUALITY OF ITS SERVICES.

Results

Results Area

Children and young people in statutory and supported out-of-home care and those awaiting adoption are placed in safe, well functioning agencies

Indicator 3.1

The number of interim accredited agencies achieving accreditation since 2004

The number of designated agencies accredited by the Children's Guardian has steadily increased since 2004.

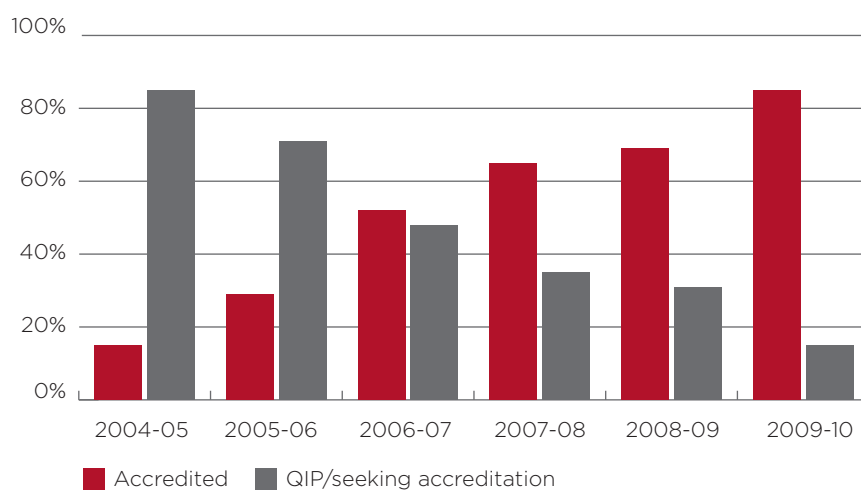
Status of designated agencies as at 30 June 2010

There were 56 designated agencies (see Appendix A).

Of these:

- 48 agencies were accredited
 - Four agencies that previously had interim accreditation achieved accreditation for five years
 - Four new agencies achieved accreditation for three years.

Status of Designated Agencies

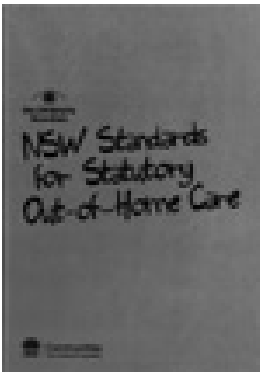


- Eight agencies were participating in the QIP.

There were three non-government agencies accredited to provide local adoption services in NSW.

In 2009-10 two designated agencies ceased operating.

2008-2009		2009-2010	
Designated agencies	58	Designated agencies	56
- Agencies with 5 yrs accreditation	28	- Agencies with 5 yrs accreditation	32
- Agencies with 3 yrs accreditation	12	- Agencies with 3 yrs accreditation	16
- Agencies participating in the QIP	18	- Agencies participating in the QIP	8



ACER SAID: “THE STRUCTURE AND LAYOUT OF THE [STANDARDS] IS EXEMPLARY, AND MAKES IT VERY EASY TO IDENTIFY THE UNDERLYING STRUCTURE OF IDEAS. IT COULD EASILY BE USED AS A MODEL FOR OTHER STANDARDS DOCUMENTS”.

Designated agencies are accredited to provide residential care, foster care or both residential and foster care. As at 30 June 2010, of the 48 accredited agencies:

- 17 were accredited to provide residential care only
- 13 were accredited to provide foster care only
- 18 were accredited to provide both residential and foster care.

Additional Information

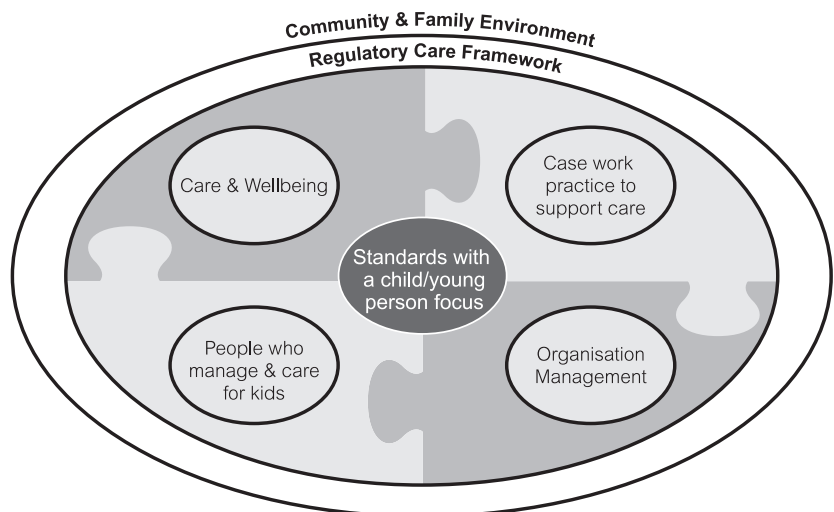
NSW Out-of-Home Care Standards

Organisations are assessed according to their level of compliance with accreditation criteria. The *NSW Out-of-Home Care Standards* have formed the basis of the criteria for accreditation for the last seven years. This year the *Standards* were reviewed to streamline and update the requirements in line with contemporary practice and current research and legislation. They have been refined and reissued as the *NSW Standards for Statutory Out-of-Home Care*. The revised *Standards* are reduced in number from 50

to 22 and are divided into four sections which reflect key areas of quality practice (see diagram below). These are: the care and wellbeing of children and young people, casework practice, management of carers and staff and organisational management. The revised *Standards* and the associated assessment procedures and tools were piloted with three agencies that were due for reaccreditation in 2009-10. The revised *Standards* apply from 1 July 2010.

The *Standards*, which were developed in consultation with the OOH sector and 41 children and young people in residential care, have received strong stakeholder support. They were also independently reviewed by the Australian Council for Educational Research (ACER), which has an international reputation for developing quality assurance systems.

NSW OOH Standards 4 Quality Areas



Indicator 3.2

The number of interim accredited agencies on individualised programs

All eight agencies remaining in the QIP are now working towards accreditation in accordance with an individualised program. This staged approach to demonstrate compliance has proven successful for agencies in the QIP, allowing them to focus incrementally on achievable goals.

Background information on the QIP

Organisations that were providing statutory out-of-home care at 15 July 2003 received interim accreditation under the Children and Young Persons (Savings and Transitional) Regulation 2000.

Interim accredited agencies then had a choice to either apply to the Children's Guardian for accreditation or enter the QIP. Those agencies that elected to apply for accreditation have now been accredited. As at 30 June 2010, eight agencies remain in the QIP. The aim of the QIP is to progressively prepare and move agencies towards meeting the standards required for accreditation. All agencies in the QIP must achieve accreditation by 14 July 2013 at the latest.

Agencies participating in the QIP are required to demonstrate continuing improvement against the accreditation criteria, in accordance with a schedule developed by the Children's Guardian. The schedule provides an individualised program of achievable targets for the agency to meet within specified timeframes.

During 2009-10, the Children's Guardian provided feedback to 12 agencies in the QIP regarding their progress towards reaching accreditation. Community Services is one of the 12 agencies working towards accreditation. The Children's Guardian and the Chief Executive of Community Services are working together to develop a targeted program of assessment to ensure that Community Services, as the largest provider of out-of-home care in NSW, can progress in the QIP and reach accreditation along with other agencies by 2013. In 2009-10 the Children's Guardian also met regularly with the Aboriginal Child and Family Community Care Secretariat (AbSec) Accreditation Officer to assist in targeting support for Aboriginal statutory and supported out-of-home care agencies to achieve accreditation.

Indicator 3.3

The number of new agencies assessed for accreditation and accredited

New applicants that wish to provide out-of-home care must be provisionally accredited by the Children's Guardian on the basis of their policies and procedures. They are required to provide evidence of their practice within 12 months of receiving their first placement.

Four new organisations were provisionally accredited in 2009-10 and, as at 30 June 2010, a further 11 organisations had lodged applications for accreditation with the Children's Guardian.

Indicator 3.4

The rate at which adoption agencies are meeting their conditions of accreditation

It is a condition of accreditation that non-government agencies accredited to provide adoption services submit a report to the Children's Guardian each year outlining their activities for the previous year. The three agencies currently accredited to provide adoption services all submitted compliant reports in the first half of 2009-10.

Performance

Indicator 3.1

The number of agency visits to support and promote quality improvement and positive outcomes for children and young people in statutory and supported Out-of-Home Care

The Children's Guardian conducted 105 agency visits and hosted 13 agency visits. This compares with 29 agency visits and 51 hosted visits last year.

The number of visits to agencies by Children's Guardian staff increased as a result of the increase in individualised programs for agencies in the QIP, and as the focus of assessment moves towards greater on-site demonstration of practice. Visits were also undertaken to pilot the revised *Standards* and to assess agencies applying for reaccreditation.

Indicator 3.2

Proportion of QIP assessments completed on time

The Children's Guardian aims to complete all assessments in a timely manner.

The average time taken to conduct assessments in 2009-10 was:

- New applicant submissions 92 days
- QIP submissions 32 days

While QIP submissions were processed six days quicker on average than in the previous year, new applicant submissions took 41 days longer on average to process. This can be attributed to:

- Increasing the number of visits for on-site assessments, including a requirement that on-site assessments be conducted by two, rather than one Children's Guardian staff to ensure rigorous and balanced assessment judgements
- Assessing nine agencies undergoing reaccreditation against revised Standards and employing a new assessment methodology
- Involving assessment staff in developing the revised Standards
- Moving a larger number of agencies onto individualised programs
- Additional staff training to implement the new assessment system.

It is anticipated that the next reporting year will see a decrease in the number of days to process new applications.

Have we made a difference?

The number of designated agencies accredited by the Children's Guardian has steadily increased since 2004.

The process of achieving accreditation through demonstrating compliance with the Standards has resulted in agencies improving their policies, procedures and practices and providing better outcomes for children and young people in their care.

During 2007, the Children's Guardian reviewed the Accreditation and Quality Improvement Program and made wide-sweeping recommendations for reform to its regulatory framework. These were endorsed by the Special Commission of Inquiry into Child Protection Services in New South Wales, with amending legislation introduced in January 2009.

During 2009-10, the Children's Guardian piloted the new accreditation system with three agencies applying for reaccreditation. These agencies were assessed against a trial version of the *NSW Standards for Statutory Out-of-Home Care* and were all reaccredited under the new system.

The new accreditation system:

- Has a stronger focus on outcomes for children and young people in statutory out-of-home care
- Allows agencies to demonstrate their practice during on-site assessments by Children's Guardian staff
- Encourages Children's Guardian assessors and agency staff to discuss practices and strategies for meeting a standard



AN ONGOING FOCUS ON CONTINUOUS IMPROVEMENT WOULD ENCOURAGE DESIGNATED AGENCIES TO CONSIDER HOW THEY CAN CONTINUALLY IMPROVE OUTCOMES FOR CHILDREN AND YOUNG PEOPLE IN THEIR CARE

- Encourages a greater focus on the core elements of quality practice in the delivery of statutory out-of-home care
- Has a stronger focus on performance and continuous improvement
- Is strength-based and allows agencies to demonstrate innovative ways in which they address a standard.

The new system was positively received by pilot participants.

The new system and the *NSW Standards for Statutory Out-of-Home Care* were further refined during the pilot, in consultation with our government and non-government partners.

The new system is less time-consuming for agencies and more relevant to their work and the best interests of children and young people in statutory out-of-home care.

Innovative sector projects

The Benevolent Society has developed a comprehensive child-friendly consultation booklet which is used with each child or young person prior to a case review. There are editions of the booklet for different age groups ensuring consultation is age appropriate.

KARI Aboriginal Resources Inc has undertaken an innovative project to help children and young people understand their history, culture and identity. KARI is developing a family tree for each child and young person, which includes photos, anecdotal information and other information from family and community members. The family tree belongs to the child or young person and will be printed for them when they leave care.

These projects demonstrate a strong commitment to the wellbeing of children and young people in statutory out-of-home care.

What is planned for next year?

Launch of new accreditation system

In 2010-11 the new system will be implemented across the sector, with increased on-site assessment.

Continuous improvement

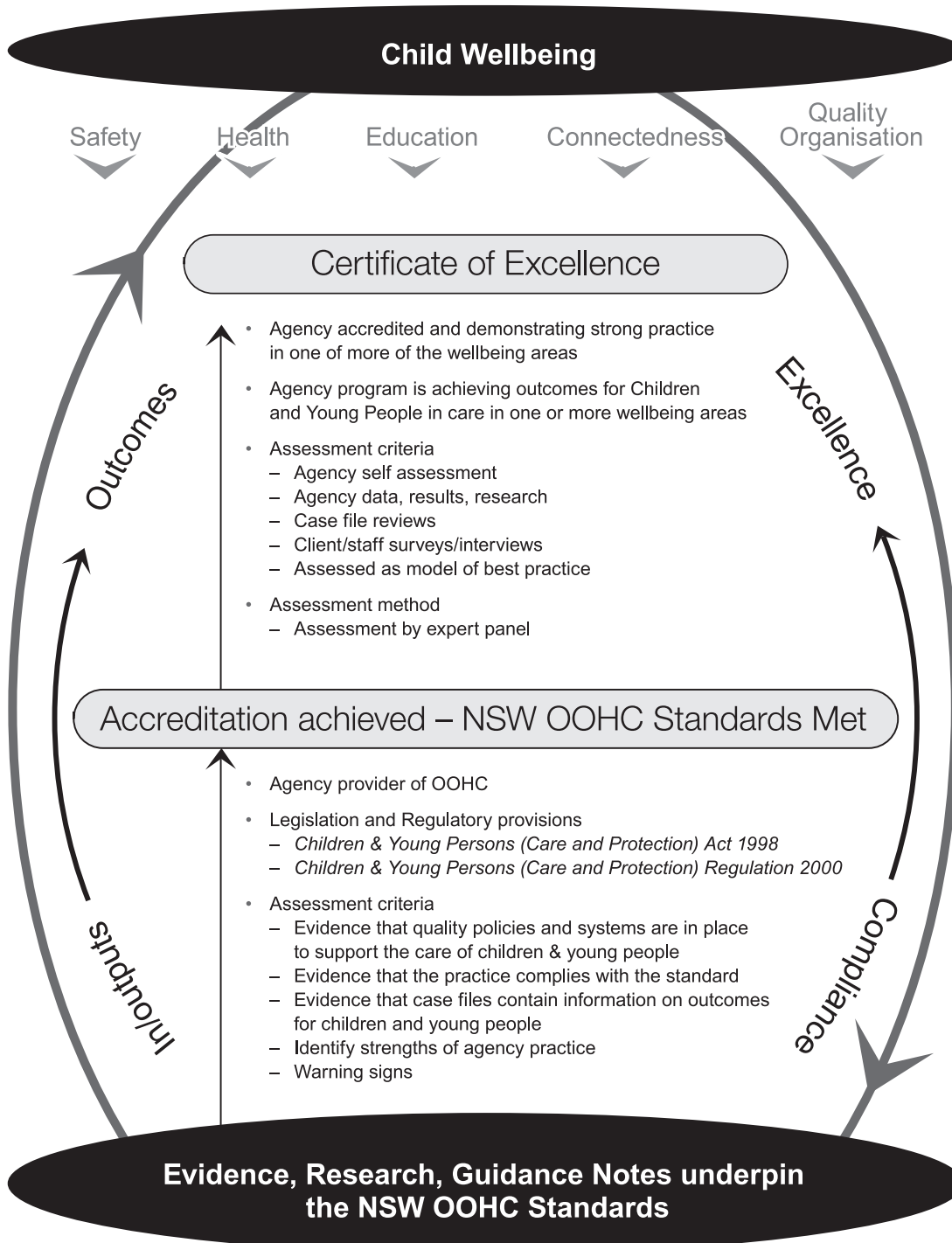
The Children's Guardian will investigate options for the introduction of a post-accreditation program of continuous improvement for designated agencies, in consultation with its government and non-government partners

The following diagram illustrates how the introduction of continuous improvement will operate with accreditation requirements and over time, assess child wellbeing.

NSW OOHC Standards 'Architecture'

Objective: States the over-arching outcome for a child and young person

Standard: States the factors in the OOHC system that contribute to the outcome



CHAPTER 4

CASE FILE AUDIT

Population

New South Wales children and young people in statutory out-of-home care.

Outcome

Agencies are monitored to provide safe and well-functioning placements for children and young people in statutory out-of-home care.

Indicators

- Case files audited in 2008-10
- Practice related to meeting the health needs of children and young people in statutory and supported OOHHC, such as:
 - Medical history
 - Health assessments
 - Health plans
 - Immunisation
 - Mental health and behaviour.

Partners

- NSW Department of Human Services
- Designated agencies
- Peak bodies
- NSW Ombudsman
- Specialist out-of-home care clinics
- NSW Health.

Baseline and achievements

The Case File Audit – Health was conducted in two phases over 2008-10. In total, 3 448 files were audited from 51 designated agencies.

The Audit provides us with invaluable baseline information about how agencies address the health needs of children and young people in the out-of-home care system and highlights areas that can be improved to provide better health outcomes for children.

The 2008-10 Case File Audit found that basic health information and information about the child or young person's current health and developmental status were significantly more likely to be available on the files of the non-government agencies. Initial health assessments and planning for health needs were also more likely to be found on these files. It also emerged that communication between carers, agencies, health professionals and Community Services often appears to be poor.

Did we make a difference?

The 2008-10 Case File Audit identifies areas where designated agencies need to improve performance both systemically and for individual children and young people.

Agencies use Case File Audit results to improve their services for children and young people in statutory out-of-home care.

The Audit findings emphasise the importance of the *Keep Them Safe* commitment to provide health and developmental assessments for all children and young people in statutory out-of-home care.

The Children's Guardian collaborated with NSW Health and NSW Community Services in their *Keep Them Safe* OOHHC Research Advisory Group, which is working towards implementation of *Keep Them Safe* commitments. The Children's Guardian modified the Case File Audit to capture additional health-related information, and provided audit data to assist with the research project.

The Audit results also allowed the Children's Guardian to provide information to support the development of the National Clinical Framework for Children and Young People in Out-of-Home Care.

Overview

The Children's Guardian monitors the performance of designated agencies against the requirements of care and protection legislation and the *NSW Standards for Statutory Out-of-Home Care*. The Children's Guardian monitors all residential placements of children under the age of 12 and will monitor the suitability of all children and young people in statutory care placed with non-designated agencies, following Community Services' implementation of systems to consult the Children's Guardian on all such placements. However, only a small number of children and young people are in such placements.

The Case File Audit Program is the Children's Guardian principal means of monitoring designated agency provision of statutory out-of-home care.

The Case File Audit focuses on casework practice and agency case management and assists in identifying areas of good practice and areas for improvement. Agencies are provided feedback after audit on areas where they are performing well and on areas where improved practice is required. Agencies are considered compliant if 80 per cent of their case files contain the evidence specified by the Children's Guardian.

What we assess

The Children's Guardian monitors the performance of designated agencies against the requirements of the legislation and the *NSW Standards for Statutory Out-of-Home Care*. The principal means of monitoring undertaken is an audit of children and young people's case files conducted regularly with all agencies.

Children's case files are assessed for the following information:

- Content and structure
- Case planning and review
- Evidence of children and young people participating in planning and reviews
- Application of the Aboriginal and Torres Strait Islander placement principles
- Compliance with priority areas set by the Children's Guardian.

In 2008-10 the Children's Guardian identified the health needs of children and young people in out-of-home care as a priority area for the Case File Audit Program.

At the time of the Audit, there was no standardised practice requirement for some areas examined. The Children's Guardian sought advice from specialists in the out-of-home care clinics at Randwick, Westmead and Newcastle children's hospitals and the KARI Clinic to determine good practice in these areas. The recommendations of

organisations such as the Royal Australasian College of Physicians, the Royal Australian and New Zealand College of Psychiatrists and the CREATE Foundation were also considered.

The Children's Guardian made further modifications to the Audit to support the work of the NSW Health Out-of-Home Care Advisory Group.

The Audit looked at how agencies were identifying and meeting health needs and planning for ongoing health and wellbeing. The Audit examined the practice of agencies in relation to:

- Obtaining and recording health related information
- Assessments of health status and health needs
- Planning and monitoring of health issues
- Providing health information to parents.

Scope of the audit

In total, 3 448 files were audited from 51 designated agencies (2 124 files in Phase 1 and 1 324 in Phase 2). The designated agencies included 49 non-government organisations, Community Services and ADHC.

Results

Results Area

Children in statutory out-of-home care are in safe and well-functioning placements

Preliminary Findings

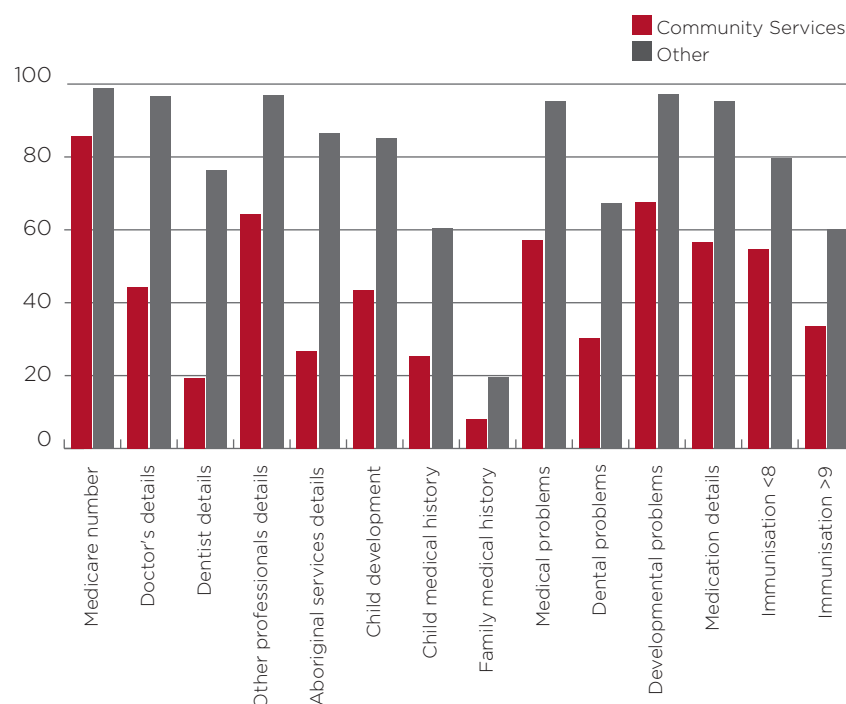
The findings from the Audit will be finalised and published in a report later in 2010. Preliminary findings indicate that non-government agencies are likely to:

- Record a broader range of basic health-related information
- Conduct and maintain records of assessments; to develop health, medical management and immunisation catch-up plans
- Conduct case conferences
- Review a range of health-related issues in the case planning/review process.

From a purely practical perspective, it was apparent that their file structure generally promoted better access to health-related information for staff. For example, it was more likely that: medical contact details were recorded in a file summary sheet, medical reports were collated in the file, current reports were linked to case plans/reviews.

The Children's Guardian and the Chief Executive of Community Services are working together to develop a targeted program of assessment to ensure that Community Services, as

Health Information by Agency Type



the largest provider of out-of-home care in NSW, can continue to progress towards meeting the accreditation criteria and address Case File Audit results.

the scheduled reviews of placement arrangements are recorded. In the 2008-10 Audit, non-government agencies reached 95 per cent compliance, while Community Services reached 59 per cent compliance in this area.

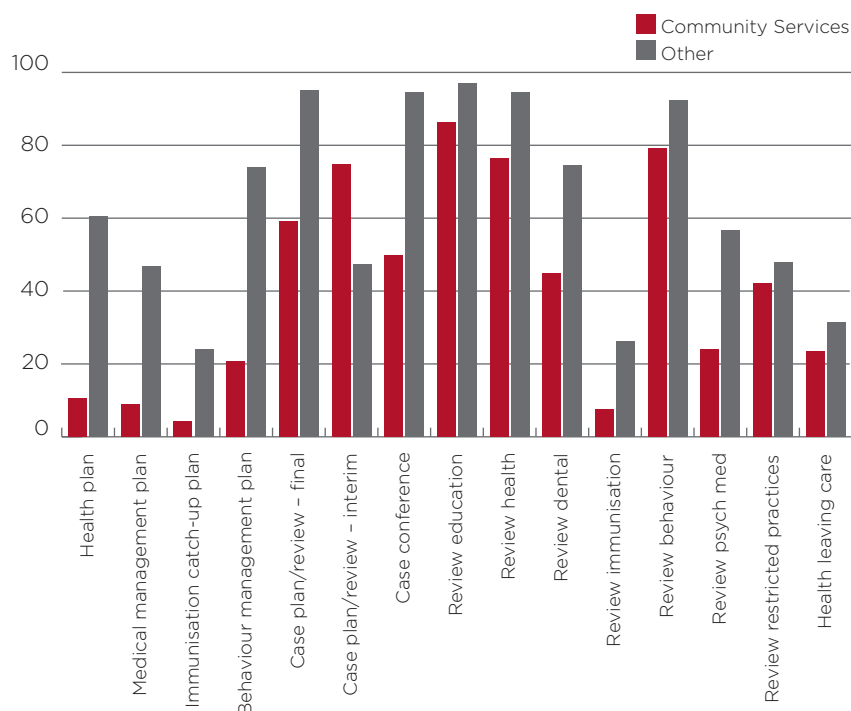
Other audit results

Indicator 4.1

The proportion of case files reaching compliance levels of 80 per cent or more in the case planning and review component of Case File Audits

The Children's Guardian monitors whether case plans are on children and young people's files, and whether

Planning and Monitoring by Agency Type



IT IS ANTICIPATED THAT HEALTH ASSESSMENT LEVELS WILL SUBSTANTIALLY INCREASE IN THE FUTURE, AS THE *KEEP THEM SAFE* HEALTH ASSESSMENT REFORMS ARE EMBEDDED.

Indicator 4.2

Proportion of case files demonstrating children and young people's participation in case reviews

Children and young people in care should be given the opportunity to be involved in decisions that affect their lives. This includes being involved in case planning and review processes. The Children's Guardian audits files to find evidence that children and young people are involved in case reviews.

Non-government agencies achieved compliance of 94 per cent in conducting case conferences and 83 per cent in inviting children and young people to participate in reviews. Community Services reached 50 per cent and 67 per cent respectively in these areas.

The Children's Guardian asked agencies to comment on whether they used the results of the Case File Audit to improve practice.

- Eight out of 10 agencies reported that the results were used extensively to improve practice
- Two thirds indicated that they used the results to change other aspects of their work such as record

keeping or to inform staff about the agency's performance.

Indicator 4.3

Proportion of agencies reporting that the Children's Guardian staff conducting the Audit were helpful

Almost all agencies were satisfied with the performance of the staff of the Children's Guardian.

- 80 per cent of agencies reported that staff were very good
- 17 per cent of agencies reported that staff were fairly good.

Indicator 4.4

The average number of case files audited per day/staff during Case File Audits

- NSW Community Services = 11.4
- Non-government agencies = 5.1

The variation in rate for auditing files at Community Services and non-government agencies is due to the logistics of the Audit. All Community Services files are made available for audit at a central location. The rate of audit at non-government agencies depends on the location of the audit (metropolitan, regional or rural) and the number of files identified for audit at each location.

Indicator 4.5

The percentage of agencies that responded to our requests to remediate non-compliant items identified in the Case File Audit

The majority of agencies (72 per cent) responded to our requests to remediate non-compliant items identified in the Case File Audit. These responses included the development of strategies to implement changed practice, as well as evidence of remediation of individual files.

What the findings tell us

The Children's Guardian's 2006-07 Case File Audit provided clear evidence of the relative strengths of non-government service provision and the level of support non-government agencies are able to provide to children and young people in out-of-home care. The 2008-10 Case File Audit continues to reinforce this message. The size of the Community Services' out-of-home care population and the demands this places on Community Services means that practice is variable and some children and young people do not receive the same level of support they would receive from a non-government agency.

Reporting

The Children's Guardian provided reports on the results of the Audit to each agency to assist them to identify areas of good practice and areas where improvement is required.

The following reports were provided to each agency:

- An aggregated report to identify the level of compliance the agency had achieved across all files
- A CD-ROM of Audit results for each individual case file

- A breakdown report that contained results for the agency's individual regions/offices (if applicable). This was a new initiative to assist agencies to identify any variation in the results for individual regions/offices or programs.

What's planned for next year?

The Children's Guardian is currently preparing for the 2010-12 Case File Audit Program. The Audit will focus on practice related to meeting the education needs of children and young people in out-of-home care. The Audit will include both government and non-government agencies.

The Children's Guardian is establishing an advisory group of representatives from the education sector and designated agencies with a particular interest in education.

CHAPTER 5

VOLUNTARY OUT-OF-HOME CARE

Population

Children and young people in voluntary out-of-home care in NSW.

Outcome

Children and young people in voluntary out-of-home care are in the care of safe, well-functioning agencies.

Indicators

- The number of agencies authorised to arrange or provide voluntary out-of-home care

Additional indicators, to be given effect after the Voluntary Out-of-Home Care Register commences operation later in 2010, are detailed in the “Results” section of this chapter.

Partners

- Designated agencies
- Organisations registered to provide voluntary out-of-home care
- Peak agencies (carers, care providers and disability)
- Department of Human Services
- Department of Families, Housing, Community Services and Indigenous Affairs
- Department of Health and Ageing.

Baseline and achievements

In late 2009, the Children’s Guardian led government and non-government agency consultations on the design of voluntary out-of-home care regulations.

Since voluntary out-of-home care legislation commenced on 24 January 2010, the Children’s Guardian has:

- Allocated a dedicated voluntary out-of-home care project officer and established a single electronic point of contact system for all voluntary out-of-home care inquiries and reports
- Identified 24 designated agencies that arrange or provide voluntary out-of-home care and confirmed the registration of 70 non-designated agencies
- Required agencies that provide or arrange voluntary out-of-home care to nominate Voluntary Out-of-Home Care Contact Officers and keep relevant records of placements and case plans
- Developed the Voluntary Out-of-Home Care Register with the Department of Services, Technology and Administration and commenced user acceptance testing of the Register
- Identified further legislative changes necessary to support the effective operation of the voluntary out-of-home care system
- Delivered information and training sessions and resources
- Commenced the development of procedures for voluntary out-of-home care intake, assessment, case planning and interagency coordination.

Did we make a difference?

Children and young people in voluntary out-of-home care, their parents and voluntary out-of-home care agencies will benefit from the system after the Voluntary Out-of-Home Care Register commences operation later in 2010.



THE GOVERNMENT, AS PART OF *KEEP THEM SAFE*, HAS PROVIDED THE CHILDREN'S GUARDIAN WITH ADDITIONAL RESOURCES TO DEVELOP AND OVERSEE THE VOLUNTARY OUT-OF-HOME CARE SYSTEM AND THE VOLUNTARY OUT-OF-HOME CARE REGISTER

Overview

The voluntary out-of-home care provisions of the Children and Young Persons (Care and Protection) Act 1998 ("the Act") and Children and Young Persons (Care and Protection) Regulation 2000 ("the Regulation") commenced on 24 January 2010.

Voluntary out-of-home care is out-of-home care arranged between a parent of a child or young person and a relevant organisation (a designated agency or organisation registered with the Children's Guardian). It commonly involves the care of children and young people with a disability.

The Act's original provisions addressing parentally arranged out-of-home care remained unproclaimed as they:

- Applied to an unreasonably wide range of care arrangements (e.g. children staying with family friends), and

- Over-regulated care where parents retained full parental responsibility for their children and there were no child protection concerns.

However, lack of external regulation in the area meant:

- Some children and young people were drifting in voluntary out-of-home care
- Some children and young people were remaining in voluntary out-of-home care without sufficient planning to meet their needs
- There was variable practice in the key areas of intake, assessment and case planning
- There was insufficient coordination between agencies providing or arranging voluntary out-of-home care.

The *Special Commission of Inquiry into Child Protection Services in New South Wales* recommended the introduction of a modified voluntary out-of-home care regime.

Key elements of voluntary out-of-home care legislation

The key elements of the current legislative framework are:

- Parents may only arrange a voluntary out-of-home care placement with a designated agency (accredited to provide statutory care) or an organisation registered by the Children's Guardian
- All non-designated agencies that were arranging or providing voluntary out-of-home care before 24 January 2010 are automatically registered during the 12 month transition phase
- Care must be provided or supervised by a designated agency, if a child or young person is in voluntary out-of-home care for three months in a 12 month period,
- A designated agency must prepare a case plan for a child or young person before they have been in voluntary out-of-home care for 180 days in a 12 month period

- Agencies that fail to comply with the three month/180 day timeframes must make a mandatory report to Community Services
- The Children's Guardian is to formulate intake, assessment, inter-agency coordination and case planning procedures
- Case plans for children and young people in voluntary out-of-home care must be kept until they turn 18
- Key information about voluntary out-of-home care placements is to be recorded on the Voluntary Out-of-Home Care Register
- People who are/have been in voluntary out-of-home care and their parents may access and correct information on the Register.
- Improve the consistency and quality of intake, assessment, planning care and inter-agency coordination arrangements
- Enhance sector knowledge of a child or young person's care history and previous case plans, supporting improved planning of care, information sharing and inter-agency coordination
- Provide ADHC and other service planners with improved information about care patterns, to support improved planning and delivery of voluntary out-of-home care and support services.

Additional Information

Key challenges

The previous lack of regulation of the sector, other than through funding agreements, means there are considerable differences in voluntary out-of-home care agency practices.

There are diverse voluntary out-of-home care programs that are funded by NSW and Commonwealth agencies, or that are privately funded, adding to the complexity of the sector and making it more difficult to identify and communicate with all voluntary out-of-home care agencies.

Many voluntary out-of-home care agencies provide respite, where the parent of the child or young person in care is regarded as the primary client. These services have mainly focused on the needs of the carer, while the Act requires them to act in the best interests of the child or young person.

The voluntary out-of-home care system needs to be sufficiently flexible to accommodate differences across the sector, while embedding common practices in key areas. The system also needs to promote cultural change, making agencies more child and young person focused, while still meeting the needs of parents and other carers.

Refinement of the legislative framework

During implementation of the new system, the Children's Guardian and its partners identified the need to make a number of improvements to the legislative framework for voluntary out-of-home care. These issues need to be resolved before the Voluntary Out-of-Home Care Register commences operation towards the end of 2010.

Section 187 of the Act requires that the Children's Guardian's annual report include any recommendations for changes to NSW law and an evaluation of the response to those recommendations.

As outlined later in this chapter, changes need to be made to elements of the current legislative framework to better support the voluntary out-of-home care system.

Benefits of the voluntary out-of-home care regime

The voluntary out-of-home care regime will:

- Reduce drift in voluntary out-of-home care and ensure those in longer term care benefit from proper case planning
- Promote parents having access to relevant information and participating in planning care and decision-making

The Minister for Community Services has advised that the government supports all 13 recommended changes, which are detailed below. Some of these changes were progressed under the *Statute Law (Miscellaneous Provisions) Act 2010*, with the others to be addressed in the next Parliamentary Session.

(i) *All out-of-home care arrangements between a parent and an organisation should be voluntary out-of-home care*

A child is not currently in voluntary out-of-home care unless their care is arranged or provided by a relevant organisation. An organisation can refuse to register and escape all regulation on the grounds that it is not providing out-of-home care. Children in the care of such an organisation, or who enter care before an organisation registers, should benefit from the protections of the Act.

(ii) *All non-designated agencies that arrange or provide voluntary out-of-home care must register with the Children's Guardian*

The Act does not allow agencies that arrange voluntary out-of-home care to register, despite such agencies being able to enter into voluntary arrangements with parents. This oversight needs to be remedied.

The current requirement of the Regulation for an organisation that arranges or provides voluntary out-of-home care to register is unenforceable because of the circularity in the definition of voluntary out-of-home care outlined above.

The Act should require all non-designated agency organisations that provide or arrange voluntary out-of-home care to register with the Children's Guardian, with a \$22 000 penalty for non-compliance, consistent with the penalty for unlawfully arranging statutory or supported out-of-home care.

(iii) *Government agencies should be able to register with the Children's Guardian*

This recommendation was addressed in the *Statute Law (Miscellaneous Provisions) Act 2010*.

(iv) *Parts of agencies should be able to register with the Children's Guardian*

This recommendation was addressed in the *Statute Law (Miscellaneous Provisions) Act 2010*.

(v) *The Children's Guardian should have the power to monitor voluntary out-of-home care agency compliance with care and protection legislation*

The Children's Guardian has no explicit power to monitor agency compliance with voluntary out-of-home care legislative requirements. The Act should provide for such a power, supported by a power to direct

registered organisations to provide the Children's Guardian with information relevant to the safety, welfare and wellbeing of children and young people in voluntary out-of-home care.

(vi) *"Arranging" and "providing" out-of-home care need to be clearly defined*

The Act does not define the circumstances in which voluntary out-of-home care is arranged or provided, creating uncertainty as to responsibilities under the legislation. The organisation closest to the point at which care is delivered should "provide" care for the purposes of the Act. Any organisation that sub-contracts to it or acts as a broker for its services should "arrange" care.

(vii) *Voluntary out-of-home care provided outside NSW should not be regulated*

This recommendation was addressed in the *Statute Law (Miscellaneous Provisions) Act 2010*, following Crown Solicitor's advice that the provisions could have extra-territorial effect and conflict with laws in other jurisdictions.

(viii) *The three month and 180 day statutory timeframes should be expressed as 90/180 cumulative days*

The Crown Solicitor has advised that a child or young person must respectively spend three months or 180 days in continuous, rather than cumulative, care in a 12 month period for designated agency supervision and case plan



requirements to be triggered. The recommendation gives effect to the model endorsed by the Special Commission of Inquiry and Government.

(ix) The Children's Guardian should operate in the same manner as a Child Wellbeing Unit in processing mandatory reports of breaches of the 90/180 day timeframes

The current arrangements mean that technical breaches (such as a child changing a placement after 180 days not immediately having a new case plan) or cases where there is no risk of significant harm, will be unnecessarily reported to the Child Protection Helpline. This will unnecessarily increase child protection system workloads and cause considerable anxiety for parents.

The Voluntary Out-of-Home Care Register will generate an automatic alert when these timeframes are breached and allow the Children's Guardian to promptly confirm any breach, the reasons for it, and how it is proposed to be addressed. The Children's Guardian will then determine whether there is a risk

of significant harm that needs to be reported to Community Services.

(x) The Children's Guardian should be able to supervise the care of a child who has been in care for more than 90 days in the past 12 months

ADHC has agreed to supervise the care of children and young people with a disability where a registered organisation does not arrange for another non-government organisation to supervise the care. However, there is currently no government agency available to play a similar role for children and young people without a disability. The Children's Guardian is best placed to take on this role.

(xi) Supervising designated agencies should supervise care and supervise the preparation of case plans

It is important that planning for care occurs as close as possible to the point of care. A supervising designated agency should supervise the case planning process and approve any case plan, but should not have primary responsibility

for those tasks. The current arrangements create ambiguity in the roles and legal liability of agencies.

(xii) Voluntary out-of-home care agencies or carers that act in good faith to physically restrain a child from harming themselves or others should be immune from criminal or civil prosecution

The immunities that apply for statutory and supported out-of-home care should be extended to voluntary out-of-home care.

(xiii) Children and young people in the Young Carers at Risk Respite Program should be excluded from the regime

This is a program for children and young people who need respite from caring for their disabled or ill parents. These care arrangements are short term and differ from most respite arrangements, where it is the parents who require respite. Children in this program will not benefit from being treated as part of the voluntary out-of-home care system.



The Voluntary Out-of-Home Care Register

The Department of Services, Technology and Administration has adapted the Government Licensing Service (GLS) to establish the Voluntary Out-of-Home Care Register, which is administered by the Children's Guardian.

The Register is a secure online application and access to the Register is strictly controlled.

Voluntary out-of-home care agencies will enter the minimum information necessary to uniquely identify a child or young person in voluntary out-of-home care onto the Register, as well as details of whether they have a disability, the type of care provided, care entry and exit dates, and any supervision arrangements and case plans/reviews.

Voluntary out-of-home care agencies will be able to search the Register for a child's previous care history and case plan information. They will then be able to contact other agencies that have cared for the child to obtain information on their care needs and, where care is still being periodically provided by another agency, coordinate the manner in which care is provided.

The Register will also calculate the number of days a child or young person has been in care in the last 12 months and provide advance alerts to agencies and the Children's Guardian on critical deadlines for designated agency supervision of care and the preparation of case plans.

Persons who have been in voluntary out-of-home care and their parents may access, and request the amendment of, information on the Register.

The Register will also provide reports on patterns of care that are not currently available to ADHC or other organisations that administer voluntary out-of-home care programs. This will assist those organisations to efficiently allocate their resources and improve the operation of their programs.

The Register was tested by users at the end of 2009-10 and will launch towards the end of 2010.

Education and Training

During 2009-10, the Children's Guardian conducted information sessions on the new legislation for members of the NSW Council of Social Service (NCOSS), Association of Children's Welfare Agencies (ACWA), Carers NSW, Commonwealth Respite and Carelink Centres (CCRCs) and specialist disability service peak organisations and providers.

Statewide training on the operation of the Voluntary Out-of-Home Care Register will be provided through National Disability Services (NSW), Interchange, ADHC and CCRCs in early 2010-11.

Voluntary out-of-home care information resources are available on the Children's Guardian website at www.kidsguardian.nsw.gov.au/voluntary-out-of-home-care

Results

Results Area

Children and young people in out-of-home care are in the care of safe, well-functioning agencies

Indicator 5.1

The number of agencies authorised to arrange or provide voluntary out-of-home care



THE REGISTER IS THE FIRST GLS APPLICATION THAT CAN TRACK SERVICES PROVIDED TO INDIVIDUALS AND GIVES REMOTE USER ACCESS TO “PRIVATE REGISTER” INFORMATION. THE REGISTER CAN BE ADAPTED TO OTHER CHILDREN’S GUARDIAN PROGRAMS AND HAS SIGNIFICANT POTENTIAL FOR MONITORING SERVICES PROVIDED TO INDIVIDUALS IN OTHER SECTORS

There are 24 designated agencies that arrange and/or provide voluntary out-of-home care. The Children’s Guardian has confirmed the registration of 70 additional non-designated agencies. Information on each of these agencies can be found at www.kidsguardian.nsw.gov.au/voluntary-out-of-home-care

All pre-existing non-designated voluntary out-of-home care agencies are automatically registered during a 12 month transition period and additional agencies are expected to confirm their registration during this period.

Other indicators

When the Voluntary Out-of-Home Care Register starts operation, the following outcome and process indicators will be reported against:

- The number of unregistered agencies detected arranging or providing voluntary out-of-home care
- The number of children and young people recorded on the Voluntary Out-of-Home Care Register as having been in care

- The percentage of children and young people in care for 90 cumulative days in the previous 12 months, whose care was provided or supervised by a designated agency
- The percentage of children and young people in care for 180 cumulative days in the previous 12 months, who had a formal case plan
- The percentage of child/parent requests to access information on the Voluntary Out-of-Home Care Register processed within 2 working days
- The percentage of child/parent requests to amend information on the Voluntary Out-of-Home Care Register processed within 5 working days.
- Facilitate the passage of amending legislation
- Issue statutory procedures on intake, assessment, case planning and interagency coordination that reflect the amended legislation
- Complete Voluntary Out-of-Home Care Register statewide training
- Launch the Voluntary Out-of-Home Care Register
- Provide parents with additional information on the system
- Begin the formal registration process, supported by self-assessment of compliance with specified legislative and statutory procedure requirements
- Establish a compliance monitoring program
- Develop a Code of Conduct for Voluntary Out-of-Home Care, in consultation with key stakeholders
- Examine options to integrate existing ADHC/National Disability Services (NDS) data collection and reporting systems with the Voluntary Out-of-Home Care Register.

A compliance monitoring program and associated performance measures will be developed in late 2010-11.

What’s planned for next year?

The Children’s Guardian’s main voluntary out-of-home care priorities for 2010-11 are to:

CHAPTER 6

CHILDREN'S EMPLOYMENT

Population

Children under the age of 15 and child models under the age of 16, employed in entertainment, still photography and door-to-door sales in NSW, their parents and employers.

Outcome

Employers of models under 16 years of age and children under 15 years of age in prescribed industries are authorised and abide by the Code of Practice.

Indicators

- The number of authorised employers
- The number of productions notified to the Children's Guardian
- The number of productions with approved variations to the Code of Practice
- The number of breaches or warnings issued.

Partners

- Employers of children in prescribed industries
- Parents of children employed in prescribed industries
- NSW Department of Education and Training
- NSW Office of Industrial Relations
- Registered nurses and midwives
- NSW Commission for Children and Young People.

Baseline and achievements

- 185 applications for authorities to employ children or requests to confirm entitlement to exemptions to hold an authority were made, compared to 150 last year. The majority of these matters (82 per cent) were processed within three days or less and the remaining nine per cent were processed within 14 days
- Employers notified the Children's Guardian of 912 productions, compared to 810 last year
- 168 productions required one or more variations to the Code of Practice, compared to 184 last year
- The Children's Guardian issued four formal breach notices, 18 warnings and six reminders to productions where the employer did not comply with the legislation
- Draft *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010* and Regulatory Impact Statement released for comment.

Did we make a difference?

The number of authority applications and requests for confirmation of entitlement to exemptions this year was greater than any year since 2004-05, the first full reporting year after the Children's Guardian took over responsibility for children's employment.

Similarly, the number of productions notified this year (912) is more than double the number notified in 2004-05 (440). Still photography sessions were the biggest driver of this increase (295 sessions notified this year, compared to only 13 in 2004-05).

These trends reflect the Children's Guardian's efforts since 2005 to make more employers aware of their legislative requirements, particularly still photographers. As a result, more child employment has occurred in an environment where we can be satisfied that the rights of children were protected.

Overview

The Children's Guardian regulates the employment of children under 16 years of age for modelling and children under 15 years of age for other types of entertainment, exhibition, still photography work and door-to-door sales. Children's employment staff work with employers to make sure children work in an environment where their individual emotional, social, physical and developmental needs are met.

Our role includes:

- Promoting the welfare of children covered by the legislation
- Assessing applications from employers for authorities to employ children for activities prescribed by the legislation
- Assessing requests from employers to confirm entitlement under the legislation from the requirement to hold an authority
- Monitoring authorised and exempt employers' compliance with legislative requirements
- Consulting with employers if specific safety and welfare issues are identified

- Investigating and taking appropriate action in response to alleged breaches of legislative requirements
- Educating employers and other stakeholders about the legislation
- Advising organisations and individuals, for the benefit of children at work, who are not subject to the children's employment provisions of the legislation.

The Children's Guardian fulfils these functions under the children's employment provisions of the *Children and Young Persons (Care and Protection) Act 1998* (Chapter 13 and Schedule 2) and the *Children and Young Persons (Care and Protection – Child Employment) Regulation 2005* ("The Regulation").

Code of Practice

Authorised and exempt employers must comply with the Code of Practice in the Regulation.

The Code of Practice requires employers to notify the Children's Guardian before they employ children.

The Code of Practice includes requirements regarding the maximum hours, number of days, and times, children may be employed, supervision requirements, parental contact, travel to and from work, a limit on a child's combined education and employment hours in any seven consecutive days, and special conditions relating to children under three years of age and babies under 12 weeks of age.

The Children's Guardian may approve employer requests for variations to the Code of Practice. Applications for variations are considered on their merits and are only granted where the Children's Guardian is confident that the welfare of any employed child will not be at risk.

	04-05	05-06	06-07	07-08	08-09	09-10
Total Authorities approved	141	128	145	170	140	171
Total E&E	137	121	129	148	118	145
Total Stills	8	7	16	22	22	26

Results Area 1

Models under 16 years of age and children under 15 in prescribed industries work only for authorised and compliant employers

Employers intending to employ models under 16 years of age and children under 15 years of age in a prescribed industry must be authorised, unless exempt. Employers applying for an authority must demonstrate the capacity to comply with the child employment legislation.

The legislation sets a limit on the duration of authorities to one month or 12 months.

Indicator 6.1

The number of employers applying for and issued with authorities

In 2009-10, 185 applications were made for authorities to employ children or requests to confirm entitlement to exemptions for the requirement to hold an authority. This number is greater than any year since 2004-05, the first full reporting year after the Children's Guardian took over responsibility for children's employment. This year:

- 171 applications were approved
- Two applications were withdrawn
- 12 exemptions were confirmed.

The number of applications approved (171) was greater than the previous year (140) but similar to 2007-08 (170). The number of exemptions (12) doubled compared to the previous year. All the exemptions this year were under clause 7 of the Regulation, which relates to the employment of children over 10 years of age, outside school hours and for no more than 10 hours per week.

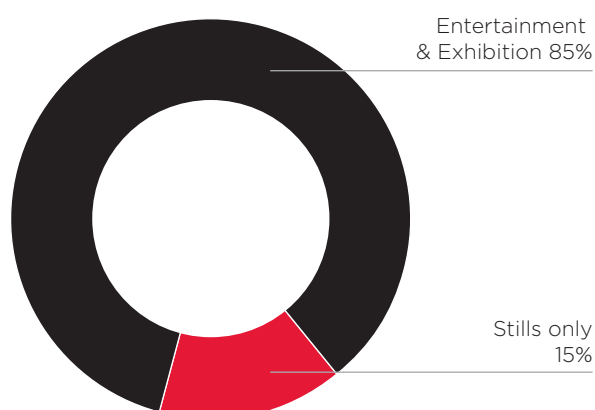
Additional Information

Employers must pay an application fee to obtain an authority, which varies depending on the employment type and duration of the authority.

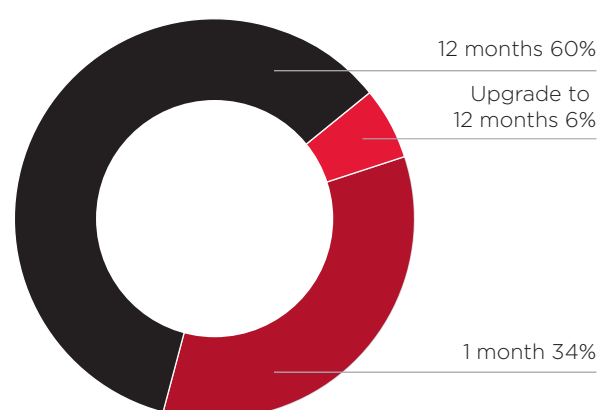
The profile of authorities approved was mainly similar to previous years:

- 145 (85 per cent) were for entertainment and exhibition, which also allows still photography, and 26 (15 per cent) were for still photography only
- 108 (63 per cent) of employers had held an authority before
- 50 per cent of all still photography only authorities (13 out of 26), and 34 per cent of all entertainment and exhibition authorities (50 out of 145), were for new employers.

Authorities approved by type



Authorities approved by duration



This year 10 applications to upgrade from a one month authority to a 12 month authority were received, compared to only two last year.

The Children's Guardian collected \$260 528.40 in fees for authorities from employers. This is greater than the amounts collected last year (\$158 206.40) and in 2007-08 (\$139 439.80). This year is the first full reporting year since authority fees were increased, following the November 2008 NSW Mini-Budget.

During their initial enquiries into child employment requirements in New South Wales, more employers are seeking advice about options available to reduce or not pay the authority application fee. This is reflected in the increased number of upgraded authorities (employers held off paying for the more expensive 12 month authority until sure it was needed) and more exemptions confirmed this year.

Sometimes employers have opted to change their plans so that they do not use children, or do not reward them, to avoid the authority application fee. The potential for the authority fee to deprive children of employment opportunities or pay was considered as part of the 2010 review of the Regulation.

Results Area 2

Models under 16 years of age and children under 15 years of age in prescribed industries are employed in an environment where their individual emotional, social, physical and developmental needs are met

To develop optimally, children and young people should be able to enjoy and benefit from their artistic pursuits or other employment. Before every instance of employment, employers are required to demonstrate their ability to comply with the Code of Practice, or apply for variations, in order to ensure that children and young people are safe and their welfare is promoted when employed.

A key element of the Children's Guardian's role in assessing employers' pre-employment notifications is to monitor that the employer's plans for a child are likely to be age appropriate.

In October 2009, the National Advisory Group on Body Image released "A proposed National Strategy on Body Image". Consistent with a recommendation of the report, the Australian Government released the "Voluntary Industry Code of Conduct on Body Image" in June 2010. A key element of the Code is using people aged 16 years or older to model adult clothes or to work or model in fashion shows targeting an adult audience.

This complements the NSW Government's initiative in April

2009 to broaden the child employment provisions of the legislation to models under the age of 16.

Indicator 6.2

The number of pre-employment notifications of child employment to the Children's Guardian

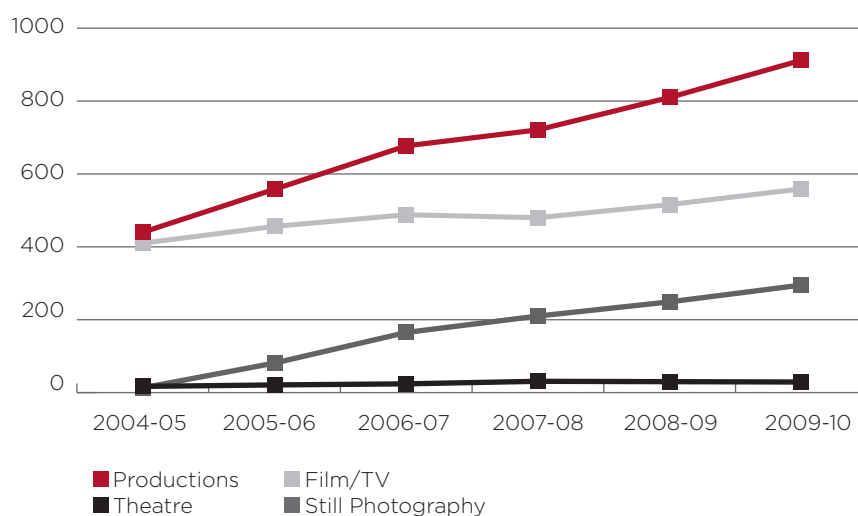
In 2009-10, employers notified the Children's Guardian of 912 productions, which is higher than last year (810) and continues the growth trend of previous years.

The number of productions notified this year is more than double the number notified in 2004-05 (440). Still photography sessions were the biggest driver of this increase (295 this year, compared to 249

last year and only 13 in 2004-05), which reflects the Children's Guardian's efforts since 2005 to make still photography employers aware of their obligations.

Other productions, such as film and television, also contributed to the overall increase in productions notified this year (559 compared to 516 last year and 410 in 2004-05). Whether this was influenced by an increase in activity in the sector as a whole, or an increase in employers' awareness of their compliance with the legislation, is unclear. However, some increase in activity is likely given the introduction of more pay and free-to-air television channels, some of which are targeted solely at children.

Production by type - annual comparison



In 2009-10 the profile of productions was:

- 559 productions (62 per cent) for film and television
- 295 (32 per cent) for still photography only
- 29 (3 per cent) for theatre
- 11 (1 per cent) for exhibition
- 18 (2 per cent) for radio.

These percentages are almost identical to last year.

Within the film and television category, the majority of productions were commercials (307 – 55 per cent) and TV shows / series episodes (187 – 33 per cent), similar to last year (48 per cent and 35 per cent respectively).

The majority of the still photographic sessions notified were for fashion (52 per cent) and goods and services (38 per cent). These data were not available in previous years.

Indicator 6.3

The number of assessments of requests for variations

The Children's Guardian has delegated authority to approve variations to the Code of Practice in particular instances of child employment.

Requests for variations to the Code of Practice are sometimes initiated by the employer. However, many variation requests arise because the Children's Guardian's



"IN NSW, CHILDREN ARE ONLY ALLOWED TO WORK EIGHT HOURS A DAY, INCLUDING TIME SPENT TRAVELLING TO AND FROM THE SET. IN THE END, THIS RESTRICTION TURNED OUT TO BE A BLESSING, WITH THE DECISION TAKEN THAT EVERYONE WOULD WORK EIGHT-HOUR DAYS INSTEAD OF THE USUAL 10.

"THE CREW ADORED IT AND IT MADE FOR A REALLY NICE SHOOT," CHAPMAN SAYS. "THE KIDS JUST INFECTED THE SET WITH A LOVELY SPIRIT."

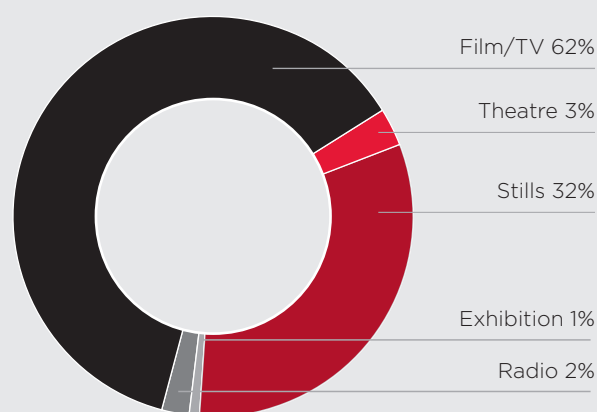
SYDNEY MORNING HERALD ARTICLE, 'AUNTY MAKES HISTORY' ('CHAPMAN' WAS THE PRODUCER OF 'MY PLACE.' ABC 3) DECEMBER 2009.

staff identify, during the pre-employment notification assessment process, issues that will be outside the Code of Practice. Where necessary, we liaise with the employer regarding the variation request and often suggest that the employer modify the proposal to be more consistent with the needs of the child and the intent of the legislation.

During 2009-10, 168 productions required variations, which accounted for 18 per cent of all pre-employment

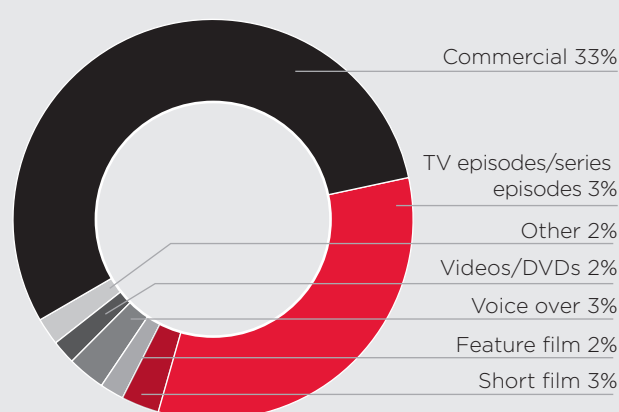
productions notified. The percentage rate of variations approved remained fairly constant in the three previous reporting years after regulatory reform in 2005-06 (29 per cent, 25 per cent, and 26 per cent respectively). The very slight decrease last year (23 per cent) and the subsequent decrease this year is consistent with the increased proportion of still photography notified to the Children's Guardian.

Productions notified by type



Exhibitions and radio were not separately identified until 2008-09.

Productions by type within Film and Television



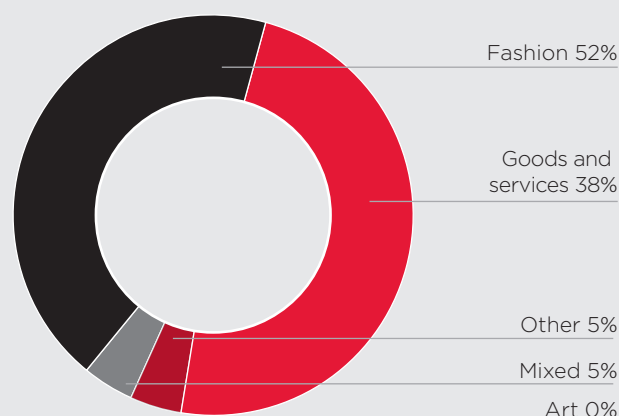
Indicator 6.4

The number of investigations instigated in response to alleged breaches of the Code of Practice that result in formal determinations of breach or warnings

In 2009-10, 28 productions (three per cent of total productions) were investigated for possible breaches of the Code of Practice, four of which (14 per cent) resulted in a formal determination of a breach, 18 (65 per cent) resulted in a formal warning and six (21 per cent) resulted in a reminder to the employer regarding its responsibilities under the legislation. Similar to last year, most of these matters related to employers who did not provide pre-employment notifications to the Children's Guardian, or where children were employed outside the maximum allowed hours and days of employment.

The Children's Guardian's staff work with employers who do not comply with the conditions of their authority to increase their awareness of the legal requirements and to improve their systems and procedures to avoid a recurrence.

Productions by type within Still Photography



In 2009-10 the profile of the productions requiring variations was generally consistent with previous years:

- Most were film and television (73 per cent – 123 of 168)
- Most of the 123 film and television productions requiring variations were commercials (70) followed by TV series episodes (37)

- 79 per cent (23 of 29) theatrical productions required variations.

This year 6 per cent (19 of 295) of still photography productions required variations. Although this is less than the unusually high figure last year (12 per cent – 29 of 249), it is more consistent with 2007-08 and 2006-07 (both 4 per cent).

Performance

The Children's Guardian makes direct and indirect contributions to ensuring that children in prescribed industries only work

for authorised and compliant employers and are employed safely and consistent with their developmental needs. This includes promoting our jurisdiction and advising potential employers and other stakeholders of the requirements pursuant to the Act.

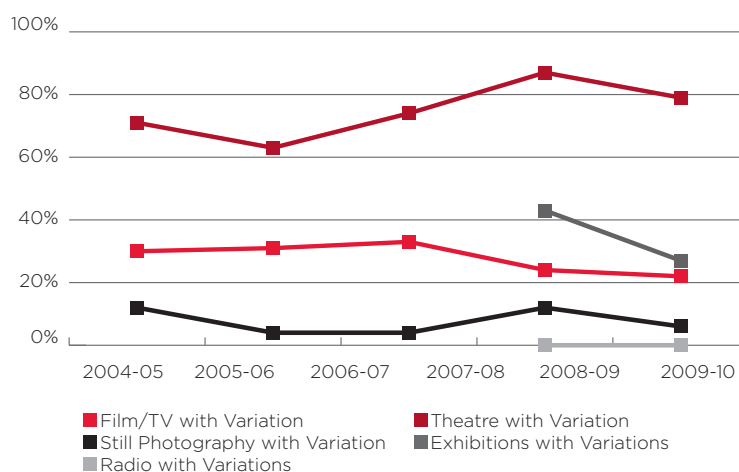
Assessments undertaken and advice provided

In addition to providing compliance advice and assessing employers' requests regarding authorities, exemptions, pre-employment notifications and variations to the Code of Practice, the Children's Guardian's staff also:

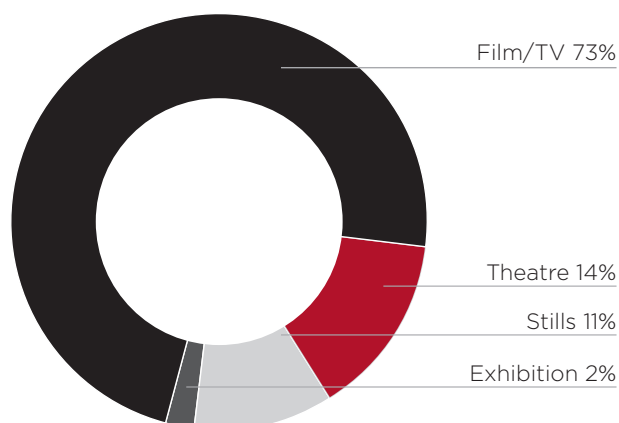
- Dealt with 113 pre-employment related enquiries from potential or current authorised employers regarding productions which were cancelled or were subsequently identified as outside our jurisdiction (103 last year and 81 in 2007-08)
- Met or teleconferenced with employers or other stakeholders on 18 occasions in total, to discuss child employment issues and the legislative requirements (three) and potential compliance issues regarding proposed child employment (15).

When children's employment is not subject to the legislation, we recommend the Code of Practice as a guide to good practice.

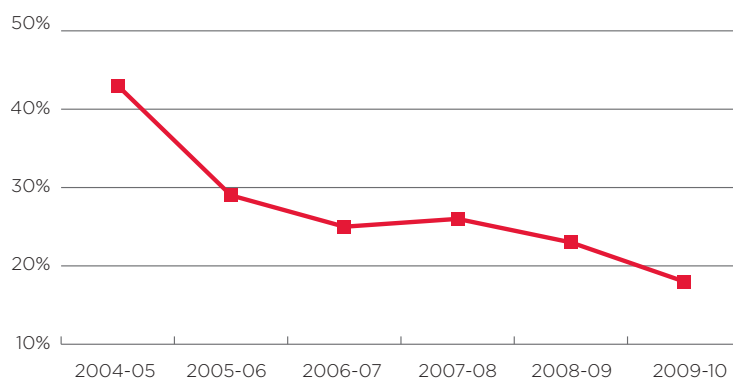
Proportion of variations within production type – annual comparison



Variations by production type



Proportion of productions requiring variations – annual comparison



Employer's authorisations or requests for exemptions processed within set timeframe

The Children's Guardian aims to issue employer authorities and confirm exemptions within 14 calendar days, unless that would not suit the employer.

In 2009-10, 99 per cent (183 out of 185) applications for authorities and confirmation of exemptions were processed within 14 calendar days.

- 82 per cent of all applications were processed within three days of receipt
- 36 per cent of all applications were processed the same day as receipt.

Authority / exemption processing days

More than 14 days	2	1%
14 days or less	183	99%
5 days or less	164	89%
3 days or less	151	82%
same day	67	36%

The processing of two applications was delayed:

- One due to administrative problems verifying that an EFT payment had been received but arrangements were made so this did not inconvenience the employer
- Another was held over because the employer applied a month before the required start date of the employment.



2VOX FM INTERVIEWED THE CHILDREN'S GUARDIAN ON 28 OCTOBER 2009 ABOUT THE LEGISLATIVE CHANGES TO CHILD MODELS THAT TOOK EFFECT LAST REPORTING YEAR. THIS WAS ANOTHER MEDIUM FOR OUR MESSAGE TO GET ACROSS.

Additional information

The legislation does not permit the Children's Guardian to grant an authority unless the employer submits a complete and accurate application, a correct payment that can be verified, and demonstrates that it can and will comply with the legislation.

Site visits are made where an unusual risk is identified, either by the employer or by staff of the Children's Guardian. Production visits are also made where possible to assist employers to understand their legislative responsibilities if they have limited experience in employing children under 15 years.

In 2009-10, the Children's Guardian's staff made 26 visits to productions in progress.

The Children's Guardian's staff gives priority to working closely with employers before a child is employed in a production. We assess the employer's awareness of the Code of Practice and their child employment plans. We question and provide advice on potential compliance issues and ensure that the employer

addresses them before any child employment commences. The aim of this pro-active approach is to maximise the likelihood of the employer acting compliantly during the entirety of a child's employment.

As an alternative to location visits, and where it is necessary and appropriate to do so, the Children's Guardian's staff telephone key people on location, such as the set nurse and parents, to confirm the wellbeing of the employed children.

Children's Employment Legislation Changes

The Children and Young Persons (Care and Protection – Child Employment) Regulation 2005 will be repealed automatically on 1 September 2010, in accordance with the *Subordinate Legislation Act 1989*.

During 2010 the Children's Guardian reviewed the operation of the 2005 Regulation and considered options for a replacement 2010 Regulation. This process

included consultation with key stakeholders:

- Department of Services Technology and Administration – NSW Industrial Relations
- Arts NSW
- Department of Education and Training (NSW)
- Department of Premier and Cabinet (NSW Better Regulation Office)
- NSW Commission for Children and Young People
- Department of Human Services NSW – Community Services
- Media Entertainment and Arts Alliance
- Screen Producers Association Australia
- Live Performance Australia.

In June 2010 the Children's Guardian released for public comment an exposure draft of the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010 and a Regulatory Impact Statement (RIS).

Proposals canvassed in the RIS and exposure draft of the 2010 Regulation were to:

- Change the current combined school and work time limit in line with international research
- Change the calculation of work time
- Increase the travel time allowance so as not to disadvantage children living outside the Sydney metropolitan area

- Increase the maximum number of employment days allowed for some children
- Not charge any fee for an authority or increase the discount for proven commitment to the Code of Practice
- State more explicitly what is expected of employers when they are assessing risks and the appropriateness of a role for a child when they submit pre-employment notifications to the Children's Guardian.

In the first quarter of 2010-11, the Children's Guardian will assess public submissions and put a final proposal to the Minister for Community Services regarding a replacement for the current 2005 Regulation.

Service Improvements

The Children's Guardian commenced preliminary work to identify the systems and procedural changes which may be required to implement the new Regulation.

The Children's Guardian completed the development and testing of a relational database to better capture and report children's employment data, which will become effective from 1 July 2010. It will enhance existing reporting and give, for the first time, the capacity to aggregate and report on enquiries from other stakeholders for future annual reporting. It will also streamline assessment and approval tasks associated with routine

employer requests and improve workflow efficiency.

What's Planned for Next Year?

The main priorities for children's employment in 2010-11 are to:

- Implement the 2010 Regulation, and develop plain language alternatives to the Code of Practice for employers, parents, children and other relevant stakeholders such as talent agents
- Streamline pre-employment assessment processes to free up time for more location visits
- Improve the children's employment database
- Develop policy options for the possible extension of children's employment legislation to unpaid work and work in a broader range of industries
- Review the continuing relevance of children's employment legislation to door-to-door sales.

CHAPTER 7

POLICY DEVELOPMENT

Population

The Minister for Community Services and children and young people in out-of-home care, awaiting adoption or in prescribed employment.

Outcome

Develop policies that promote the best interests of children and young people in voluntary out-of-home care, awaiting adoption or in prescribed employment.

Indicators

- Briefings provided to the Minister for Community Services
- Recommendations for legislative change approved
- Submissions prepared for government inquiries or other agencies
- Research projects undertaken or supported.

Partners

- CNSW
- NSW Department of Human Services
- NSW Ombudsman
- NSW Commission for Children and Young People
- Other NSW and Commonwealth government agencies
- Peak Bodies
- Designated agencies
- Agencies seeking out-of-home care accreditation or registration
- Non-government adoption service providers
- Employers of children in prescribed employment.

Baseline and achievements

- 28 formal briefing notes provided to the Minister for Community Services
- Developed the Children and Young Persons (Care and Protection) Amendment (Voluntary Out-of-Home Care) Regulation 2010 and made a further 19 recommendations for legislative change to the Minister, all of which have been supported by the Government
- Recommendations to the Ombudsman and CNSW for legislative amendments concerning care and protection proceedings and Working With Children Checks
- Contributed to seven other major policy reviews or investigations, *Keep Them Safe* implementation plans and five NSW/Commonwealth whole of Government Strategies and Plans
- Commissioned or supported five research projects and made Case File Audit Program findings available to support other research.

Did we make a difference?

The Children's Guardian made a positive contribution to out-of-home care and children's employment policy development and research projects at both a State and national level.

The greatest positive change was the introduction of voluntary out-of-home care legislation, which will promote the best interests of children and young people placed in parentally initiated care. As a result of these reforms, children and young people in voluntary out-of-home care are less likely to drift in care and will benefit from improved planning and coordination of services.

Overview

The Children's Guardian contributes to the development of NSW and Commonwealth policy relevant to children and young people in out-of-home care, awaiting adoption or in prescribed employment. Some of the Children's Guardian's policy submissions have broader application to other classes of children and young people.

The Children's Guardian keeps itself appraised of relevant NSW and Commonwealth initiatives, as well as local, national and international research relevant to its functions.

The Children's Guardian:

- Provides independent advice to the Minister for Community Services and the Director-General of CNSW on legislation and policy issues relevant to the Children's Guardian's functions
- Collates data and develops knowledge about out-of-home care, adoption and children's employment issues
- Contributes to State and Commonwealth government inquiries and policy initiatives initiated by other government and non-government agencies.

Result Area 1

The Minister for Community Services is kept informed of relevant information regarding out-of-home care, adoption, and the regulation of prescribed employers

Indicator 7.1

Briefings are provided to the Minister for Community Services

In 2009-10, the Children's Guardian prepared 28 formal briefing notes for the Minister. The Children's Guardian also personally briefed the Minister and her staff on a range of issues and provided Parliamentary Question and Budget Estimates support.

Result Area 2

The Children's Guardian develops policies to promote the best interests of children and young people in out-of-home care, placed for adoption and prescribed employment

Indicator 7.2

Recommendations for legislative change are approved

Section 187 of the *Children and Young Persons (Care and Protection) Act 1998* ("the Act") requires the Children's Guardian's annual report to include any recommendations for changes to NSW law and an evaluation of the response to those recommendations.

The Children's Guardian recommended that the Children and Young Persons (Care and Protection) Amendment (Voluntary Out-of-Home Care) Regulation 2010 be made. It also recommended that the Minister progress a further 19 legislative changes relevant to out-of-home care and children's employment in the entertainment industry. All of those recommendations have been supported by government.

The Children's Guardian also made recommendations to the Ombudsman and CNSW for legislative amendments concerning care and protection proceedings and Working With Children Checks. These are currently being considered by government and are summarised under Indicator 7.3 below.

In June 2010, the Children's Guardian released a RIS for the draft Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010, as outlined at Chapter 6 of this Report. The draft Regulation contains a number of proposed policy changes, but final recommendations for legislative reform will not be made until submissions in response to the RIS are considered.

Voluntary out-of-home care

The Children's Guardian developed the Children and Young Persons (Care and Protection) Amendment (Voluntary Out-of-Home Care) Regulation 2010, which amended the Children and Young Persons (Care and Protection) Regulation 2000 ("the Regulation").

During the implementation of the voluntary out-of-home care regime, the Children's Guardian made 12 recommendations for changes to the voluntary out-of-home care provisions of the Act and a recommendation to amend the Regulation to exclude from the regime children and young people in the Young Carers at Risk Respite Program.

As outlined in Chapter 5, the Minister approved all of these recommendations. Some were dealt with under the *Statute Law (Miscellaneous Provisions) Act 2010* and the remaining amendments are scheduled to be introduced later in 2010.

Statutory out-of-home care

The Children's Guardian made the following three recommendations to amend the statutory out-of-home care provisions of the Act so that:

- The Children's Guardian has the power to accredit part of a government or non-government agency as a designated agency -necessary to continue separate accreditation programs for Community Services and ADHC now they are both part of the Department of Human Services
- The Children's Guardian be notified of the deaths of children and young people in statutory or supported care
- Redundant provisions relevant to the Children's Guardian's functions be repealed, consequential to the recommendations of the *Special Commission of Inquiry into Child Protection Services in New South Wales*.

The Children's Guardian also recommended that the Regulation be amended to exclude religious camps from the definition of out-of-home care, consistent with arrangements for educational, athletic and recreational camps.

Legislation has been introduced in response to all of these recommendations.

Entertainment Industry Act 1989

The Children's Guardian contributed to the review of the Entertainment Industry Act, making the following two recommendations for legislative reform that:

- A statutory Code of Conduct for performer representatives require them to have an understanding and knowledge of child employment legislation administered by the Children's Guardian, and inform child performers and parents of that legislation's impact on child performers – Children's Guardian to develop an Information Statement for Child Performers
- Section 52 of that Act be amended to enable NSW Industrial Relations to disclose information obtained under the Act to the Children's Guardian, where relevant to the Children's Guardian's children's employment functions.

Indicator 7.3

Submissions prepared for government inquiries or other agencies

National Standards for Out-of-Home Care

The development of National Standards for Out-of-Home Care is one of the priorities of the *National Framework for Protecting Australia's Children 2009-2020*.

In January 2010, FaHCSIA released a Consultation Paper that sought advice on the content of the National Standards and how they might be measured, monitored and reported on.

The Children's Guardian attended NSW consultations on the National Standards Framework and provided a comprehensive submission to FaHCSIA, a copy of which is available at www.kidsguardian.nsw.gov.au

The resulting Draft National Out-of-Home Care Standards and principles for implementation incorporate many elements of the Children's Guardian's submission.

The *NSW Standards for Statutory Out-of-Home Care* are more comprehensive than the draft National Standards and the National Standards, when finalised, should be easily incorporated into the *NSW Standards* and the

Statutory Out-of-Home Care Accreditation Program.

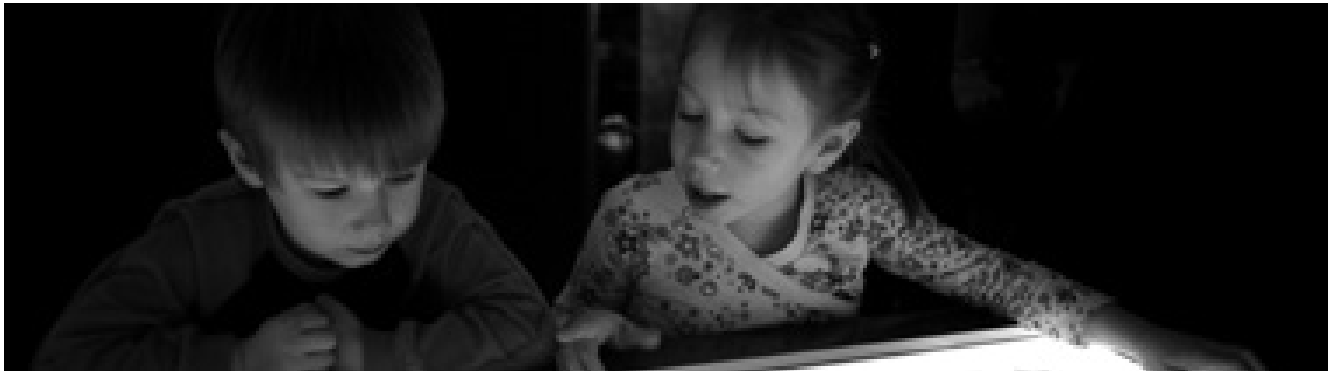
National Clinical Assessment Framework for Children and Young People in Out-of-Home Care

Australian Health Departments are developing the National Clinical Assessment Framework, which will provide for the clinical assessment and referral for treatment of children and young people entering the out-of-home care system.

NSW Health is leading the project, which builds upon *Keep Them Safe* commitments to out-of-home care health assessments.

The National Clinical Assessment Framework is of critical importance, given children and young people in statutory out-of-home care have a significantly higher prevalence of acute and chronic health problems, developmental disabilities and mental health problems than children and young people in the general population.

The Children's Guardian has contributed to the development of a National Framework and the current NSW clinical assessment model through its membership of the NSW Health Out-of-Home Care Advisory Group. The Children's Guardian also provided a detailed submission on clinical assessment and referral in statutory out-of-home care to the Child Health



and Wellbeing Subcommittee of the Australian Health Ministers Advisory Council, which is available at www.kidsguardian.nsw.gov.au

The Children's Guardian has also modified its Case File Audit tool and reports to support the work of the NSW Health Out-of-Home Care Advisory Group and will continue to work with NSW Health and Community Services in improving health outcomes for children and young people in out-of-home care.

Ombudsman investigation – The need to better support children and young people in statutory care who have been victims of violent crime

On 30 June 2010, the Ombudsman released his final report on this matter. The report identified significant deficiencies in the manner in which Community Services identified and pursued potential victims compensation claims on behalf of children and young people in statutory out-of-home care.

The Ombudsman consulted the Children's Guardian during its

investigation and the Children's Guardian recommended that consideration be given to amending care and protection legislation to require victims compensation matters to be considered during care proceedings. The Ombudsman recommends such an amendment be considered in his final report.

Community Services has changed its systems to address the Ombudsman's concerns, but the Children's Guardian believes further monitoring of the impact of these reforms is required.

The Children's Guardian and Ombudsman have agreed that Community Service performance in identifying and progressing victims compensation matters should be monitored through the Children's Guardian's Case File Audit Program.

Review of the *Commission for Children and Young People Act 1998 (CCYP Act)*

CNSW has commenced a review of the CCYP Act.

The Children's Guardian's submission to the review,

available at www.kidsguardian.nsw.gov.au recommended legislative change to address particular concerns relevant to the safety, welfare and wellbeing of children and young people in the out-of-home care system. In particular, the Children's Guardian suggested:

- An "accreditation" model for background checking would remove the need for rechecking whenever an employee moves to another child-related position
- A broader range of offending behaviour is considered in determining risk to children and young people
- There needs to be a system for post-check charges, convictions etc being notified and considered
- Language concerning out-of-home care arrangements in the Act is modernised to reflect current care and protection legislation
- The Act make it clear that the designated agency that authorises a carer under care and protection legislation is the employer of that carer for the purposes of the Act

- The Act should extend to prospective adoptive parents
- Volunteers in out-of-home care agencies should be subject to background checking
- Students placed with non-government out-of-home care agencies should be subject to background checking (currently only students working with the Department of Human Services are subject to mandatory checks)
- Clarify that CCYP can share information about employer compliance with the Act with regulatory bodies such as the Children's Guardian.

The submission also noted the potential for some funding/regulatory bodies, including the Children's Guardian, to promote and monitor compliance with background checking requirements on CCYP's behalf.

Australian Communications and Media Authority (ACMA) investigation – Live Hosted Entertainment Radio Programs: Adequacy of Community Safeguards for the Protection of Participants

In September 2009, the Children's Guardian made a submission to ACMA to inform its investigation into the adequacy of community safeguards for the protection of participants in live hosted entertainment radio programs.

The ACMA investigation was prompted by a broadcast of the Kyle and Jackie O Breakfast Show on 2Day FM Sydney, in which a 14 year old child was attached to a lie detector and asked questions about her sexual experience and truancy. During the interview the distressed child revealed she had been raped.

The child was not provided with any material benefit to participate in the broadcast, and therefore was not employed for the purposes of child employment legislation administered by the Children's Guardian. However, the case raised broader issues about the employment or use of children in broadcasting.

The Children's Guardian's submission proposed that the *Commercial Radio Australia Codes of Practice and Guidelines* be amended to require radio broadcasters to have regard to the safety, welfare and wellbeing of children in broadcasting material. The Children's Guardian suggested as a useful model the UK Office of Communications (Ofcom) Broadcasting Code for protecting persons under the age of 18. Alternatively, the Children's Guardian suggested ACMA set a program standard under the *Broadcasting Services Act 1992* (Cth).

Consistent with the Children's Guardian's submission, ACMA recommended industry codes be amended to include specific provisions for dealing with children as participants in

commercial radio programs, including the requirement that the best interests of the child be the key consideration, irrespective of any consent given by a child or parent to participate in the broadcast. The Ofcom Code was put forward as a useful model. ACMA has flagged issuing a program standard if its recommendation is not addressed in a timely manner.

ADHC initiated mediation with parents of children and young people with a disability

In accordance with the *Keep Them Safe* Action Plan, ADHC is currently giving consideration to the establishment of a suitable mediation process for cases where it considers that services are needed for a child or young person with a disability and a parent disagrees.

The Children's Guardian considers such mediation arrangements are necessary to support the effective operation of Children's Guardian's statutory voluntary out-of-home care case planning guidelines, which will address service provider and parental involvement in case planning.

The Children's Guardian has made submissions to the consultants ADHC has retained to develop options for ADHC initiated mediation.

Contribution to NSW and Commonwealth Plans and Strategies

The Children's Guardian provided comments to assist in the development of the:

- *Keep Them Safe* implementation plans
- *National Plan to Reduce Violence Against Women and their Children*
- *National Disability Strategy*
- *NSW Interagency Plan to Tackle Child Sexual Assault in Aboriginal Communities*
- *NSW Women's Plan*
- *NSW Suicide Prevention Implementation Plan 2010-2015.*

Submissions concerning out-of-home care

The Department of Human Services, Association of Children's Welfare Agencies and Ombudsman regularly consult the Children's Guardian on policy issues relevant to out-of-home care. The Children's Guardian has provided comment and advice on several policy proposals being developed by those organisations.

Indicator 7.4

Research projects undertaken or supported

Case File Audit Program

The Children's Guardian's Case File Audit program is not only a performance monitoring and feedback tool, but is a rich source of data about the quality of statutory out-of-home care services and supports. For example, during the reporting period, the Children's Guardian modified the Case File Audit tool to conduct research for NSW Health, to inform planning to support health assessments under *Keep Them Safe* and the *National Clinical Assessment Framework for Children and Young People in Out-of-Home Care*.

The Voice of Children and Young People in Residential Care Research Project

In 2008/09, the Children's Guardian engaged Carolyn Quinn to consult children and young people in residential care about their care experience and how the NSW Out-of-Home Care Standards could be improved to reflect their views about quality care. The original Standards had been developed primarily for foster care.

The Project used the same methodology and research team that prepared the *Voice of Children and Young People in Foster Care Report in 2000*. Forty-one children and young people were consulted as part of the project and consideration was given to the views of children and young people leaving care, drawn from CREATE's Transitioning from Care Report Card.

The final Report, *Voices of Experience: Report on the consultations with children and young people in residential care in New South Wales 2009*, informed the development of the revised NSW Standards for Statutory Out-of-Home Care.

Foster Care Training and Behaviour Management Project

The Children's Guardian supported the Alternative Care Clinic at Westmead Children's Hospital to develop its foster care training and behaviour management program. The Clinic also provided the Children's Guardian with a literature review and report on therapeutic interventions with kinship and other carers.

The Children's Guardian also drew on the expertise of Clinic staff to inform the development of the revised NSW Standards for Statutory Out-of-Home Care.

The Clinic will provide its final report on the outcomes of the project in 2010-11.

Kinship Care in NSW - Finding a way forward

The Children's Guardian supported the University of Western Sydney in its research into the support and supervision needs of kinship carers.



The *Kinship Care in NSW – Finding a way forward* report was released in November 2009 and informed the development of the revised *NSW Standards for Statutory Out-of-Home Care*.

Literature review on quality assurance and continuous quality improvement in the child welfare area

In June 2010, the Children's Guardian commissioned the Social Policy Research Centre at the University of New South Wales to undertake a literature review on quality assurance and continuous quality improvement in the child welfare sector.

The report, which will be provided later in 2010, will inform the development of a Children's Guardian program that recognises the continuous quality improvement achievements of designated agencies.

Role of work in child and adolescent development

The Children's Guardian commissioned Dr Gul Izmir to review Australian and international research on the role of work in child and adolescent development and the relationship between work and schooling.

Dr Izmir's report was used to inform the development of the Regulatory Impact Statement to the Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010, which recommends some relaxation of the 40 hour cap for combined schooling and work regulated by the Children's Guardian.

A copy of Dr Izmir's report is annexed to the Regulatory Impact Statement and is available at www.kidsguardian.nsw.gov.au

Additional Information

The most significant policy reform projects undertaken by the Children's Guardian during 2009-10 were the streamlining of the previous NSW Out-of-Home Care Standards to develop the *NSW Standards for Statutory Out-of-Home Care* and the introduction of a new strength-based assessment process for accrediting designated agencies. These are detailed at Chapter 3 of this report.

The following provides an overview of other policy work performed by the Children's Guardian during 2009-10.

Human Tissue Act 1983 procedures

The Children's Guardian, in consultation with Community Services and NSW Health, developed procedures for the principal officers of designated agencies to deal with requests under the *Human Tissue Act 1983* to obtain consents for the removal of organs or tissue from a deceased child in the care of the State.

The *Human Tissue Act 1983* was amended in 2009 to enable children and young people, under the full parental responsibility of the Minister for Community Services or the Director-General of Human Services, to become organ donors. There was previously no capacity for organ or tissue donation in such cases, which caused considerable distress to the birth parent and carer of a child who both wished to donate the organs of a child who died while in statutory out-of-home care.

Probity assessments for the principal officers of designated agencies

The Children's Guardian recommended to the *Special Commission of Inquiry into Child Protection Services in New South Wales* that all principal officers of designated agencies and adoption service providers be required to undergo a Working With Children Check, due to the sensitivity of those positions.

The Special Commission supported this recommendation and the government amended the *Commission for Children and Young People Act 1998* to require such checking. These provisions commenced in March 2010.

The Children's Guardian developed additional regulations to provide for the broader probity checking of principal officers of designated agencies by the Children's

Guardian and for the removal of principal officers for probity reasons.

These regulations have not been progressed because of the current review of the *Commission for Children and Young People Act 1998* (the CCYP Act) and the Ombudsman's review of probity assessment arrangements for persons involved in the planning and delivery of community services.

The Children's Guardian will further consider the need for a separate probity regime for the principal officers of designated agencies after considering the outcomes of the CCYP Act review and the Ombudsman's probity project.

Placement of children and young people in non-designated agency accommodation

While the *Children and Young Persons (Care and Protection) Act 1998* requires children to be placed in care supervised by a designated agency, it is sometimes in a child or young person's best interests to be placed in accommodation provided by a non-designated agency. Community Services supervises care in these circumstances.

In 2007, the Children's Guardian expressed concerns about the lawfulness of some arrangements to place children and young people in

statutory out-of-home care in accommodation provided by non-designated agencies. The Children's Guardian was also concerned about the lack of transparency in some decisions to make such placements and mechanisms for reviewing the ongoing suitability of such placements.

In 2008, the Government introduced clause 20A of the *Children and Young Persons (Care and Protection) Regulation 2000* to address those concerns. The clause allows for non-designated agency placements where Community Services has determined that the placement is best able to meet a child's needs, consults the Children's Guardian about the placement, and ensures that persons in the non-designated agency who are authorised to provide care have been background checked in accordance with the CCYP Act.

Regrettably, Community Services made a number of placements outside these arrangements during the year. The Children's Guardian and Community Services worked together to ensure that Community Services makes future non-designated agency placements in accordance with Clause 20A. This issue will be monitored in 2010-11.



What's planned for next year?

The main policy priorities for the Children's Guardian in 2010-11 are to:

- Refine the voluntary out-of-home care regulatory framework and issue statutory procedures for intake, assessment, case planning and interagency coordination
- Inform the development of performance monitoring and reporting arrangements for the National Standards for Out-of-Home Care and integrate the National Standards Framework with the framework for the *NSW Standards for Statutory Out-of-Home Care* and statutory out-of-home care accreditation
- Work with Community Services and the non-government sector in building non-government organisation capacity to support the progressive transfer of additional statutory out-of-home care responsibility from Community Services to NGO's
- Finalise Memorandum of Understandings with Community Services and with the Ombudsman's Office and Official Community Visitors
- Improve coordination between the Children's Guardian and the Children's Court, particularly in Children's Court reports on the suitability of arrangements concerning parental responsibility
- Establish a performance monitoring system for Community Service's identification and progression of civil claims for children and young people in statutory out-of-home care who have been victims of violent crime
- Finalise a position on a probity regime for the principal officers of designated agencies
- Develop material to support performer representatives to meet their obligations under the *Entertainment Industry Act*
- Manage the interrelationship between NSW children's employment legislation and model Work Health and Safety legislation
- Develop policy options for the possible extension of children's employment legislation to unpaid work and work in a broader range of industries
- Review the continuing relevance of children's employment legislation to the door-to-door sales industry.

CHAPTER 8

BEST INTERESTS OF CHILDREN AND YOUNG PEOPLE

Population

New South Wales children and young people in out-of-home care, awaiting adoption, or employed in prescribed industries.

Result

The Children's Guardian promotes the best interests of children and young people in Out-of-home care, placed for adoption and prescribed industries.

Indicators

- Information is available to the community regarding our role in promoting the best interests of children and young people
- The number of presentations given at conferences, forums and seminars
- The number of interagency forums and visits attended by Children's Guardian staff.

Partners

- Department of Human Services
- Peak Bodies
- Designated agencies
- Agencies that provide voluntary Out-of-home care
- New agencies seeking accreditation
- Agencies that provide adoption services
- Employers of children and young people
- NSW Ombudsman
- NSW Commission for Children and Young People.

Baseline and achievements

The Children's Guardian and staff presented at 26 conferences, forums or seminars, including presentations at the Irish Foster Care Association's 2009 International Conference "*Linking Global Foster Care*," the International Society for Child Indicators (ISCI) conference "*Counting Children In*," the AbSec conference "*40,000+ years of caring for our kids*" and numerous presentations to the voluntary out-of-home care sector.

The Children's Guardian and staff attended 231 stakeholder visits and events during 2009-10. Forums were held by Community Services NSW, the ACWA and NDS.

As part of the Children's Guardian's involvement in CNSW, the Children's Guardian attended numerous community events such as the Prime Minister's and the NSW Premier's Australia Day Receptions, the NSW Premier's Literary Awards and the opening of ArtExpress. She also hosted an accreditation presentation ceremony for South Coast Medical Service Aboriginal Corporation in Parliament House

Did we make a difference?

The Children's Guardian believes that in order to promote the best interests of children and young people it is essential to have a strong and visible relationship with our community partners.

The Children's Guardian has continued to increase the awareness of its role in the community with a significant increase in staff visits to agencies and attendance at sector events.

Working with our Partners

One of the key functions of the Children's Guardian is promoting and safeguarding the best interests and rights of children and young people in out-of-home care, those awaiting adoption and those employed in prescribed industries.

The Children's Guardian works with community-based and private organisations, government agencies and employers to improve the situation for these children and young people, and to promote participation in decisions that affect their lives. This is achieved by:

- Forming partnerships with non-government bodies with similar objectives
- Working with other government agencies with associated responsibilities
- Participating in community and education activities and events
- Building connections with children and young people, in particular those in out-of-home care.

Result Area

The Children's Guardian works with community partners to promote the best interests of children and young people in out-of-home care, placed for adoption and employed in prescribed industries

Indicator 8.1

Information is available to the community about our role in promoting the best interests of children and young people

The Children's Guardian and staff presented information to stakeholders at a number of information roadshows. Information was provided on changes in the Children's Guardian processes or legislation administered by the Children's Guardian. This year saw the introduction of voluntary out-of-home care legislation (see Chapter 5) and changes to the accreditation process and *NSW Standards for Statutory Out-Of-Home Care* (see Chapter 3). Consultations also began on Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010, due to take effect in September 2010 (see Chapter 6).

The Children's Guardian website www.kidsguardian.nsw.gov.au is regularly updated with legislative amendments, revised and updated guidelines, policies and procedures, recent research projects or submissions to government inquiries.

Indicator 8.2

The number of presentations given at conferences, forums and seminars

The Children's Guardian and senior staff members presented at 26 conferences, forums and seminars during 2009-10. Details of these events are provided later in this chapter.

Indicator 8.3

The number of stakeholder visits and events attended by the Children's Guardian or staff

During 2009-10, the Children's Guardian and staff attended 231 interagency forums, conferences, meetings and visits to agencies. Details of the most significant events are provided at the end of this chapter.

Additional Information

The following provides an overview of the Children's Guardian's work in promoting the best interests of children and young people during 2009-10.

Irish Foster Care Association's 2009 International Conference "Linking Global Foster Care,"

The Children's Guardian attended and presented at this international conference while



THE CHILDREN'S GUARDIAN SAID, "THE CONFERENCE PROVIDED A FORUM TO SHARE AND LEARN ABOUT THE STRENGTHS AND CHALLENGES OF FOSTERING IN TODAY'S WORLD. IT HIGHLIGHTED THE BEST NATIONAL AND INTERNATIONAL PRACTICE IN FOSTER CARE".

in Dublin. The presentation was on Regulation of out-of-home care in New South Wales: how a strengths-based approach can bring about quality improvement, outlining how the new accreditation system (see Chapter 3) will help achieve better outcomes for children and young people in statutory out-of-home care and promote continuous improvement.

The Children's Guardian familiarised herself with recent initiatives in foster care by attending a variety of sessions at the conference and gained insights from presentations by European and other international speakers.

The International Society for Child Indicators (ISCI) conference "Counting Children In"

The ISCI conference, held in Sydney in partnership with the Social Justice and Social Change Research Group (SJSC) and the University of Western Sydney, looked at ways of assessing and tracking the wellbeing of children locally and globally. Delegates shared their knowledge on measuring

and monitoring child wellbeing on matters such as economic status, health, education, and safety.

The Children's Guardian gave a presentation that explored the process of consultation with children and young people and the challenges of translating their views and wishes into a legislative based regulatory framework. The Children's Guardian gave examples of how children's concerns were directly addressed in developing the revised *NSW Standards for Statutory Out-of-Home Care*.

The AbSec conference "40,000+ years of caring for our kids"

Staff from the Children's Guardian attended the AbSec (Aboriginal Child, Family and Community Care State Secretariat NSW) conference in November 2009. The Children's Guardian gave a presentation to the conference on the progress of Aboriginal agencies in the accreditation process.

Given that Aboriginal children and young people are significantly over-represented in the statutory and supported out-of-home care systems, the importance of Aboriginal agencies achieving accreditation and providing care for their children and young people cannot be underestimated. Maintaining connection to family, community and culture is essential. The Children's Guardian's presentation emphasised these issues.

Commemorative publication marking the 20th anniversary of the Convention on the Rights of the Child

Australian Children's Commissioners and Guardians published a commemorative book to mark the 20th anniversary of the Convention on the Rights of the Child, on 20 November 2009. One of the key objectives of the publication was to raise community awareness of the importance of the rights of children and young people.



The foreword was written by Her Excellency, Ms Quentin Bryce AC, Governor General of the Commonwealth of Australia, and focused on the importance of children's rights.

The book included contributions of artwork from children and young people across Australia that matched each of the principles addressed in the publication.

The book was launched at the closing ceremony for the Asia Pacific Conference on Child Abuse and Neglect in Perth on 18 November 2009.

The 2009 Foster Care Week Carnival Day

The Children's Guardian continues to be a major sponsor and participant in the ACWA annual Foster Care Carnival Day. This is a special event in the calendar for the Children's Guardian and her staff as it provides an opportunity to interact with children and young people and their carers.

Children's Guardian staff were once again involved in the organising committee for the event. The Children's Guardian provided a small gift that children can use at school to all the children that attended the day. The Children's Guardian was also invited to present prizes to the winners of the Art/Prose competition, where children were asked to submit a poem, story, or artwork to reflect a theme.

Other opportunities to promote the best interests of children and young people

The Children's Guardian and other senior staff also gave presentations at the following:

- ARACY (Australian Research Alliance for Children and Youth) conference
- APPCAN 2009 (Asia-Pacific Regional Conference on Child Abuse and Neglect).
- NSW Ombudsman and Official Community Visitors Conference
- Legal Aid Annual Care and Protection Law Conference
- Forensic Health – Masters student lectures

- Institute of Psychiatry – The rights of the child and child protection
- NSW Health – Child Protection Counselling
- ACWA AGM
- ACWA out-of-home care forums
- Youth off the Streets Board of Management Meeting
- National Disability Services forum on *Keep Them Safe*
- National Disability Services Subcommittee on Children and Young People.

Other events and forums attended by the Children's Guardian and staff

During 2009-10 Children's Guardian staff attended:

- The Institute of Public Administration Australia (IPAA) State Conference
- The International Society for Child Indicators (ISCI) conference
- The National Disability Service Conference
- Meeting of the Australian Children's Commissioners and Guardians (ACCG)

- *Keep Them Safe* engagement tours
- CREATE Transitioning from Care Report Card 2009
- The Supporting Kinship Care research report launch
- ARACY – Ethics and consent issues related to involving children and young people in research
- The Adolescent Years: The Challenges and Need for New Policy Direction in Disability
- From Institutions to Community Living Forum (NSW Ombudsman)
- Official opening of the National Centre of Indigenous Excellence
- The Prime Minister's Australia Day Reception
- The Premier's Australia Day NSW State Reception
- NSW Premier's Literary Awards
- Premier's Public Sector Awards Ceremony
- The Australian Early Development Index and Early Learning Forum
- Out-of-home care for children within a family service approach forum (SPRC)
- Commonwealth Respite and Carelink Centres forums
- The ACWA/AbSec Partnership forum
- A presentation on the Reconciliation Action Plan
- A seminar on Results Based Accountability – "Creating Results"
- The conference "Growing up Fast and Furious" (Australian Council on Children and the Media)
- The Centre for Children and Young People's conference "Where Every Child is Somebody" (Southern Cross University)
- The Commission for Children and Young People's launch of "Captured by Kids"
- Meeting of the Foster Care Week Committee
- Stretch-a-Family's Annual General Meeting
- Youth off the Streets Annual General Meeting
- The NSW Mother of the Year awards
- ACWA out-of-home care / *Keep Them Safe* forums
- Research to Practice forums (NSW Community Services)
- Accreditation presentations to designated agencies.

What's planned for next year?

Next year the Children's Guardian is a major sponsor of the ACWA bi-annual conference, where the Children's Guardian will present findings from the 2008-10 Case File Audit on Health.

The Children's Guardian has also invited Professor Patrick McGorry, Australian of the Year, to launch a report commissioned by the Children's Guardian on the Mental Health Care Needs of Children in Out-of-Home Care and to make the closing address at the ACWA10 conference.

The Children's Guardian is also hosting a three day course for regulators in NSW. It is run by Professor Arie Freiberg, Dean of the Faculty of Law, Monash University, who is an internationally recognised specialist in regulatory practice.



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