



The Children and Young People (Safety) Act 2017 Review

Introduction

YACSA is the peak body in South Australia representing the interests of young people, youth workers, organisations and networks throughout the non-government youth sector. Policy positions are independent and not aligned with any political party or movement. YACSA supports the fundamental right of all young people to participate in and contribute to all aspects of community life, particularly the decision-making processes that impact them.

Over the past 16 years YACSA has witnessed three inquiries and a Royal Commission investigating the child protection system in South Australia and has contributed to:

- the Layton Child Protection Review
- the “Every Chance for Every Child” legislation reform discussion paper
- the Child Development & Wellbeing Bill 2013 consultation
- the Protection and Wellbeing of Children and Young People (Oversight and Advocacy Bodies) Bill extract
- the Protection and Wellbeing of Children and Young People (Oversight and Advocacy Bodies) Bill, and;
- the Children and Young People (Safety) Bill 2016.

Our concerns regarding the Children and Young People (Safety) Bill 2016, included the shifting of responsibility of guardianship from the Minister to the Chief Executive, the lack of prevention and early intervention focus in the legislation and how young people would be engaged in the decisions that affect them.

It has now been 12 months since the implementation of the Children and Young People (Safety) Act 2017 which the Department for Child Protection promised would ensure greater collaboration, quality of care and safety for children and young people across the state¹. Unfortunately, media reports and the recent report by the Guardian for Children and Young People describes a child protection system struggling to cope with the sheer number of children and young people in need of protection. YACSA continues to be concerned that this legislation won’t deliver the comprehensive “fresh start” that was promised as part of the former government’s response to the Nyland report in 2016².

¹ Government of South Australia, Department for Child protection. “Major Changes”, viewed 17 December 2019, <https://www.childprotection.sa.gov.au/department/child-safety-laws-and-you/major-changes>.

² Child Protection Systems Royal Commission, The life they deserve: Child Protection Systems Royal Commission Report, Volume 1: Summary and Report, Government of South Australia, 2016.

The current state of the child protection system in South Australia

The 2018-19 Guardian for Children and Young People annual report³ describes a child protection system in crisis. Greater numbers of children and young people are being removed from their families, children and young people in residential and commercial placements are reporting that they feel unsafe while in the system (causing them to choose to remain detained in the Adelaide Youth Training Centre out of fear), there are inadequate numbers of safe and appropriate family-based care placements, and there is a lack of disability-specific therapeutic placements for young people with disabilities and trauma-related behaviours. Given these significant issues it would seem unlikely that the current system will deliver wholesale improvements for children and young people who have experienced harm or are at risk of experiencing harm.

Prevention and early intervention

The numbers of children and young people entering the out-of-home-care system in South Australia has steadily grown over the years. Figures from 2018-19 show there was a 15.1% increase in the numbers of children and young people entering the out-of-home-care system than the previous 12 months. In fact, there has been a 45.6% increase in out-of-home-care numbers since 2014-15⁴.

Children and young people in out-of-home care face a number of challenges that includes placement stability, inappropriate placements, separation from siblings and other family, greater risks of abuse and poorer quality of life and transitioning from care⁵. There is also a strong correlation between living in residential care and contact with the Youth Justice System⁶.

With the sheer and growing numbers of children and young people entering the child protection system in South Australia, we repeat our call for government to focus on providing prevention and early intervention services and programs that seek to strengthen all families, particularly those who may be the most vulnerable. YACSA acknowledges initiatives like the Intensive Family Support Service pilot program announced by the current government in 2018 (with recruitment undertaken by Anglicare in April 2019) to work with vulnerable children, young people and their families. We look forward to the results of the program evaluation at the conclusion of the pilot stage and hope to see a range of prevention and early intervention approaches developed and implemented by government across the state.

YACSA maintains that preventing children and young people entering the child protection system should be a priority for government.

³ Office for the Guardian for Children and Young People, 2018-19 Annual Report, viewed 11 December 2019, <http://www.gcyp.sa.gov.au/wp-content/uploads/2019/11/GCYP-Annual-Report-2018-2019-.pdf>.

⁴ Ibid.

⁵ Australian Government. Australian Institute of Family Studies "children in Care", viewed 11 December 2019, <https://aifs.gov.au/cfca/publications/children-care>.

⁶ Office for the Guardian for Children and Young People. A PERFECT STORM? Dual status children and young people in South Australia's child protection and youth justice systems - Report 1 2019. Viewed 11 December 2019, <http://www.gcyp.sa.gov.au/wp-content/uploads/2019/12/Dual-Status-CYP-in-SA-A-Perfect-Storm.pdf>.

Engaging children and young people in the decisions that affect them

While the government has committed to providing the mechanisms for children and young people to participate in the decisions that affect them⁷, this is not spelled out within the legislation and we are unsure what these mechanisms are and how they have been utilised since implementation. The legislation includes the intent of article 21 of the UN Convention of the Rights of the Child⁸ as a 'Principle of Intervention' (Part 3, section 8 (1)(b), stating that a child or young person should be given the opportunity to express their own views on "a matter that concerns their care" if the child or young person "is able to form their own views on the matter". YACSA remains concerned that this provision is open to interpretation and we would like to see a stronger commitment by government to not only include young people in the decisions that impact them (insofar as influencing decisions related to their own experience of the system) but also to contribute to decision making processes about the system in general.

In doing so, government will not only fulfill their obligations in regards to upholding the rights of children and young people, they will also demonstrate that children and young people are valued citizen's in their own right whose views, opinions and needs are given due weight to inform and influence their care.

The guiding principles

This targeted consultation seeks to ascertain whether the principles contained in section 2 of the legislation are being met and whether the legislation is ensuring improvements in the lives of vulnerable children and young people in South Australia. YACSA has concerns that the sheer number of children and young people living in out-of-home care each year, coupled with reports of significant system shortfalls and negative and damaging experiences for children and young people will make achieving improvements in their lives difficult.

As we outlined in our original submission in January 2017, YACSA maintains that a continued shift in focus is required by government from the traditional crisis driven response to a response where government addresses the broader social environment of family and community strength, the health and wellbeing of families, and the development of happy and healthy children and young people through the funding of prevention and early intervention services. In fact, the World Health Organisation (WHO) suggests that governments concentrating on the tertiary end of child protection have impeded efforts to stop the violence and harm occurring against children and young people in the first place. WHO recommends a systematic, multisectoral approach where a range of organisations and sectors collaborate on delivering services and programs. The aim of this this approach is to prevent

⁷ Office for the Guardian for Children and Young People. A PERFECT STORM? Dual status children and young people in South Australia's child protection and youth justice systems - Report 1 2019. Viewed 11 December 2019, <http://www.gcyp.sa.gov.au/wp-content/uploads/2019/12/Dual-Status-CYP-in-SA-A-Perfect-Storm.pdf>.

⁸ United Nations Human Rights: Office of the High Commissioner, Convention on the Rights of the Child, 1990 <http://www.ohchr.org/en/professionalinterest/pages/crc.aspx> viewed 13 December 2019.

abuse and harm from occurring in the first instance, detect the problem and respond when it does occur, and to minimise the long-term negative impacts of child abuse and harm⁹.

While we acknowledge the complexities related to the child protection system, responses that focus on reducing the number of children and young people that come into contact with the system while also providing services to protect vulnerable children and support children and young people affected by trauma may assist government in meeting the principles contained in the legislation and to improve the lives of children and young people in South Australia.

⁹ World Health Organisation. Preventing child maltreatment: a guide to taking action and generating evidence / World Health Organisation and International Society for Prevention of Child Abuse and Neglect. World Health Organisation, 2006.



GPO Box 2117
ADELAIDE SA 5001
T: 08 8211 7546
E: yacsa@yacsa.com.au
W: yacsa.com.au



[@TeamYACSA](https://twitter.com/TeamYACSA)



[teamyacsa](https://www.instagram.com/teamyacsa)



[YouthAffairsCouncilofSA](https://www.facebook.com/YouthAffairsCouncilofSA)



[Youth Affairs Council of SA](https://www.youtube.com/YouthAffairsCouncilofSA)