



NSW OFFICE FOR CHILDREN

**the Children's  
Guardian.**

The Hon Dr Meredith Burgmann MLC  
President  
Legislative Council  
Parliament House  
SYDNEY NSW 2000

The Hon John Aquilina MP  
Speaker  
Legislative Assembly  
Parliament House  
SYDNEY NSW 2000

Dear Madam President and Mr Speaker

In accordance with section 187, Chapter 10 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 2005-2006 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 of the *Children and Young Persons (Care and Protection) Act 1998*, I recommend that the report be made public forthwith.

Yours sincerely



**Kerryn Boland**  
**Children's Guardian**  
31 October 2006

# NSW Office for Children – The Children’s Guardian Annual Report 2005-2006

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# Children's Guardian's Message

**DURING 2005-06, THE NSW OFFICE FOR CHILDREN – THE CHILDREN'S GUARDIAN (OCCG) WORKED CLOSELY WITH OUR STAKEHOLDERS TO ACHIEVE MEASURABLE IMPROVEMENTS FOR CHILDREN AND YOUNG PERSONS IN CARE, PLACED FOR ADOPTION OR IN EMPLOYMENT.**



## Accreditation – Out-of-Home Care and Adoptions

Throughout 2005-2006 we worked extensively with out-of-home care agencies participating in the accreditation and quality improvement programs. There are 18 agencies now accredited and 44 others are actively seeking accreditation or focusing on improving the care they arrange for children and young persons.

Compared to the same time the previous year, the total number of accredited agencies has doubled.

This is an impressive result and reflects the commitment of designated agencies and staff of the OCCG to improve care for children and young persons.

Our case file audit program compliments the accreditation program and is one way we monitor agencies to ensure they are meeting standards for children and young persons in out-of-home care. This year we audited 748 files from 58 agencies. With the addition of audits for children and young persons under interim Court orders we will achieve a representative sample of the NSW out-of-home care population in next years case file audit program.

The Adoption Accreditation Program, developed by the OCCG, began operating on 1 July 2005. We have commenced and will continue to work with non-government adoption service providers to meet the needs of children who are to be adopted.

## Children's employment

We worked closely with employers and industry organisations implementing the changes associated with the new Children's Employment Regulation 2005. Our efforts to educate employers of children resulted in a significant increase in applications for still photography employment purposes. We continued streamlining business processes for children's employment to benefit employers and the children and young persons who are employed. Our staff processes 94% of applications within 14 days and increased on site visits by 28% to monitor employer compliance. We will maintain our efforts to identify operational issues and options for improvement.

*‘we are making progress in our efforts to improve outcomes for children and young persons in care.’*

### Looking ahead

We are making progress in our efforts to improve outcomes for children and young persons in care but have more work to do. Our role is to safeguard and protect the rights and wellbeing of children and young persons, especially those in care, placed for adoption or in employment.

We will continue to work with designated agencies, employers, children and young people and their carers to realise a better future for these kids.



*K Boland*

Kerryn Boland  
Children's Guardian

# Overview of our performance 2005-2006

KEY RESULT AREAS	THE BEST INTERESTS AND RIGHTS OF CHILDREN AND YOUNG PERSONS IN OUT-OF-HOME CARE IN NSW, AND THOSE PLACED FOR ADOPTION, ARE PROMOTED AND SAFEGUARDED	
INTERMEDIATE RESULTS	ORGANISATIONS ARE ACCREDITED TO ENSURE THAT LEGISLATIVE RESPONSIBILITIES ARE MET.	DEVELOP A CLEAR PICTURE OF CASEWORK PRACTICE AND COMPLIANCE WITH LEGISLATIVE REQUIREMENTS.
HIGHLIGHTS/ ACHIEVEMENTS	<b>Out of home care</b> <ul style="list-style-type: none"> <li>18 agencies accredited.</li> </ul> <b>Adoption</b> <ul style="list-style-type: none"> <li>Adoption Accreditation Program commenced July 2005.</li> </ul>	<ul style="list-style-type: none"> <li>Completed the second audit of the ongoing case file audit programme.</li> <li>Increasing compliance threshold to 80%.</li> </ul>
RESULTS	<b>Out of home care</b> <ul style="list-style-type: none"> <li>14 agencies accredited for 5 years.</li> <li>3 agencies accredited for 3 years.</li> <li>1 agency accredited for 1 year.</li> <li>12 agencies pursuing accreditation certification.</li> <li>32 agencies taking part in Quality Improvement Program.</li> </ul>	<ul style="list-style-type: none"> <li>Audited 748 children and young person's files at 58 designated agencies.</li> </ul>
CHALLENGES	<ul style="list-style-type: none"> <li>Streamlining the accreditation process.</li> </ul>	<ul style="list-style-type: none"> <li>Ensuring a representative sample of the NSW out-of-home care population.</li> </ul>
FUTURE DIRECTION	<ul style="list-style-type: none"> <li>Review out-of-home care accreditation policies &amp; processes.</li> </ul>	<ul style="list-style-type: none"> <li>Undertake case file audits for children and young persons under interim Court orders.</li> </ul>
CHAPTER REFERENCE	<ul style="list-style-type: none"> <li>Chapter 2 – Accrediting out-of-home care and adoption agencies. See page 8.</li> </ul>	<ul style="list-style-type: none"> <li>Chapter 3 – Case file audits. See page 14.</li> </ul>

## Our Purpose

**TO REGULATE THE PROVISION OF  
OUT-OF-HOME CARE, ADOPTION  
SERVICES AND THE EMPLOYMENT  
OF CHILDREN UNDER 15 IN NSW.**

### THE BEST INTERESTS AND RIGHTS OF CHILDREN EMPLOYED IN NSW ARE PROMOTED AND SAFEGUARDED

#### ALL PRESCRIBED EMPLOYERS APPLY FOR AUTHORITIES TO EMPLOY CHILDREN AND ALL EMPLOYERS ADHERE TO THE CODE OF PRACTICE.

- Improving services to and efficiencies for employers.
- Implementing specific communication activities to employers regarding employment of children for still photography productions.

- Approved 128 applications for authorities.
- Assessed 558 production notifications.
- Achieved a 28% increase in site visits to monitor employer compliance with the legislation.
- Processed 94% of applications within 14 days.

- Continuing work with still photography employers.

- Continuing improvements to our IT support system, processes and procedures to streamline our services.

- Chapter 4 – Regulating children’s employment. See page 24.

#### DELIVER EFFICIENT AND EFFECTIVE SERVICES TO MEET BUSINESS OBJECTIVES.

- Achieved accreditation to Australian information security standard AS7799.

- Commenced implementation of a strategic plan for 2005- 2008.

- Improving planning and reporting systems.

- Implement systems for reporting against key performance indicators.

- Chapter 5 – Setting an example. See page 29.

## CHAPTER 1

# About the Children's Guardian

**AN OVERVIEW OF WHO WE ARE AND WHAT WE DO TO HELP CHILDREN AND YOUNG PERSONS WHO ARE IN CARE, ADOPTED AND EMPLOYED.**

## Vision

The best interests and rights of children and young persons in out-of-home care in NSW and those placed for adoption are promoted and safeguarded.

Children under 15 years employed in NSW work in environments that promote their best interests.

## Purpose

To regulate the provision of out-of-home care, adoption services and the employment of children under 15 in NSW.

## Values

### Respect for children and young persons and their diversity

We respect and value children and young persons, and value 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, continual improvement and learning.

### Strong organisation 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 Charter

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

- promote the best interests of all children and young persons in out-of-home care
- ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted
- accredit designated agencies and monitor their responsibilities under the legislation
- authorise prescribed employers to employ children under 15 years and monitor their compliance with the Code of Practice.

The Children's Guardian is required to make an annual report to Parliament and can make special reports to Parliament and the Minister on matters relating to their function.

## Stakeholders

Our stakeholders in NSW are:

- children and young persons in NSW in out-of-home care
- children and young persons who are placed for adoption in NSW
- children and young persons in NSW under 15 years of age, employed in the entertainment industry, door-to-door sales and still photography
- employers of children
- carers and parents of children and young persons in care and in employment
- people who work in the interests of children and young persons in out-of-home care and those in employment
- organisations that provide services to children and young persons in out-of-home care, those placed for adoption and that employ children under the age of 15.



## History

The Children's Guardian is a statutory position, established by the Children and Young Persons (Care and Protection) Act 1998 to promote the best interests and rights of children and young persons in out-of-home care. From December 2000 until March 2006 the NSW Office of the Children's Guardian was an independent regulatory body. The Children's Guardian was its chief executive officer and reported to the Minister for Community Services.

On 3 April 2006 the NSW Government created the Office for Children.

The Children's Guardian and all staff reporting to that position were transferred to the Office for Children. The statutory functions of the Children's Guardian were not changed. The Children's Guardian reports to the Director-General of the Office for Children.

A Children's Guardian was proposed in the report of the Review of the Children (Care and Protection) Act 1987. This followed on from a similar recommendation by the Wood Royal Commission into the NSW Police Service (1997) that there should be a special guardian for children.

The responsibility for regulating children's employment in NSW was transferred to this office in November 2003. This covers the employment of children under 15 years of age in the entertainment industry, door-to-door sales and still photography.

On 1 July 2005, under sections 10(1) and 206(2) of the Adoption Act 2000, the Director-General of the NSW Department of Community Services (DoCS) delegated the accreditation of adoption service providers to the Children's Guardian.

## Structure and Staff

### The Executive Team

**Kerryn Boland, Children's Guardian**  
(began 2/10/05)

Bachelor of Laws

Graduate Diploma in Legal Practice

**Gillian Calvert, Acting Children's Guardian**  
(17/01/05 – 1/10/05)

Bachelor of Arts

Bachelor of Social Work

Master of Business Administration

**Tom Kenny, Director, Compliance**

Bachelor of Engineering

Master of Engineering Science

Bachelor of Laws

**Susan Nicolson, Director, Accreditation**

Bachelor of Arts (Hons) Dip Ed

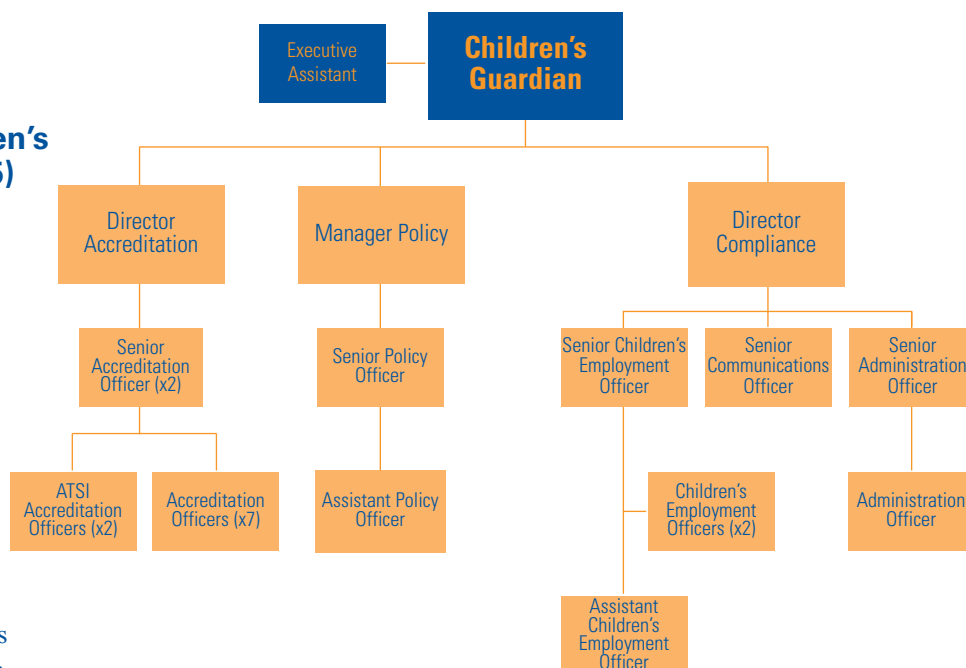
Graduate Diploma in Educational Studies

Studying for doctor of philosophy degree

**David Hunt, Manager, Policy**

Bachelor of Laws (Hons)

Bachelor of Arts



## CHAPTER 2

# Accrediting Out-of-Home-Care and Adoption Agencies

## HOW WE IMPROVE THE QUALITY OF OUT-OF-HOME CARE AND ADOPTION SERVICES THROUGH OUR ACCREDITATION PROGRAMS

The NSW Office for Children – the Children's Guardian (OCCG) promotes and safeguards the rights and wellbeing of children and young people in out-of-home care. Through our accreditation and quality improvement programs we work with community-based and private organisations as well as government agencies to improve the outcome for children and young people.

We accredit government and non-government agencies that arrange or provide out-of-home care services for children and young people. Agencies cannot provide out-of-home care services in NSW unless they have been accredited or are working towards accreditation through our Quality Improvement Program.

Our Accreditation Program is unique in Australia because we have the capacity not only to accredit but also to de-accredit.

We monitor the performance of agencies against the NSW Out-of-Home Care Standards and mandatory requirements through the accreditation scheme and through random audits of their case files.

We also accredit non-government adoption service providers.

Our Accreditation and Quality Improvement Programs aim to improve the standard of care provided to these particularly vulnerable children and young people.

### Children and young persons in care in NSW: a snapshot

- The number of children and young persons in out-of-home care (OOHC) on 30 June 2005 was 10,041
- 5,211 (51.9 per cent) boys and 4,819 (48.1 per cent) girls were in out-of-home care, as at 30 June 2005
- More children and young persons in OOHC are in family/kinship care than any other type of care (50.1% as at 30 June 2005)
- Most children and young persons have stable placements in out-of-home care. As at 30 June 2005, 45.9 per cent of children and young persons in out-of-home care had one placement in their current care period. A further 25.6 per cent had two placements
- One in four children and young persons in OOHC in June 2005 were indigenous, mostly in family/kinship care (63.6%)
- The highest number of children and young persons entering out-of-home care were under 12 months of age.
- More than two-thirds (67.6 per cent) of the children and young persons in care were between five and 14 years of age
- Children under ten years represent the majority of children and young persons in out-of-home care, 53.3 per cent, as at 30 June 2005

\* Data source NSW Department of Community Services Annual Statistical Report 2004-2005 published May 2006.

## Out-of-Home Care Accreditation

In NSW only designated agencies are permitted to provide out-of-home care for children and young persons who do not live with their families in accordance with orders of the Children's Court. In the Children and Young Persons (Care and Protection) Act 1998 a designated agency is defined as an accredited organisation.

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

Interim accreditation expired on 30 June 2005. Organisations with interim accreditation that wished to retain their status as designated agencies after that date, were required to:

- achieve accreditation from the Children's Guardian
- apply to the Children's Guardian for accreditation and achieve it by 30 June 2006
- enrol in the Quality Improvement Program (QI program) administered by the Children's Guardian.

New organisations wishing to provide out-of-home care must first be accredited as designated agencies by the Children's Guardian.

### Status of agencies

At 30 June 2006 there were 62 designated agencies. The current list of designated agencies can be found at Appendix A.

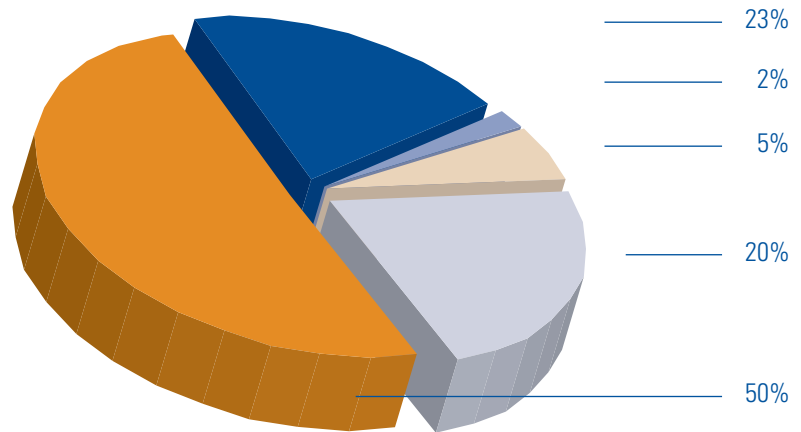
As shown in Figure 1, the status of the agencies at 30 June 2006 was as follows:

- 14 agencies that previously had interim accreditation have now achieved accreditation for five years. Seven of these agencies achieved this in 2005-2006
- Three new organisations have achieved accreditation by certification for three years in 2005-2006
- One designated agency has accreditation for one year
- 12 agencies were pursuing accreditation
- 32 agencies were participating in the Quality Improvement Program.



## Status of Designated Agencies at 30 June 2006

- Agencies with 5 years accreditation (14 of 62)
- Agencies with 1 year accreditation (1 of 62)
- Agencies with 3 years accreditation (3 of 62)
- Agencies pursuing accreditation (12 of 62)
- Agencies participating program (32 of 62)

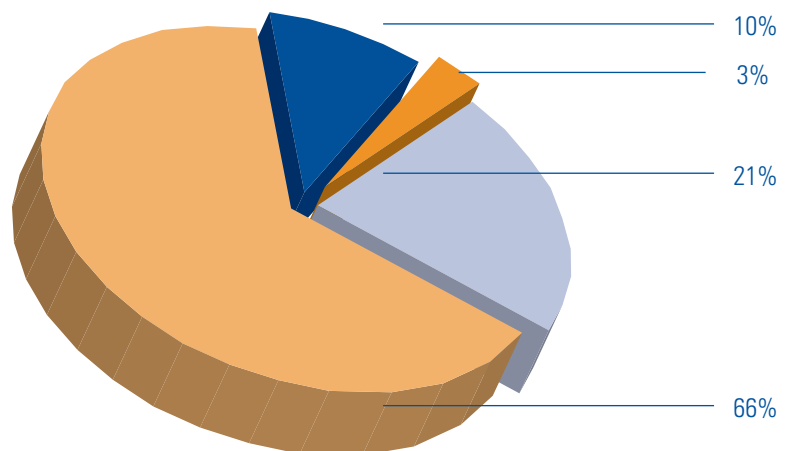


**Figure 1**

In comparison to the status of designated agencies at 30 June 2006 with their status on 30 June 2005 (as shown at Figure 2), the number of agencies decreased (72 to 62) but the number of accredited agencies doubled (9 to 18).

## Status of Designated Agencies at 30 June 2005

- Agencies with 5 years accreditation (7 of 72)
- Agencies with 1 year accreditation (2 of 72)
- Agencies pursuing accreditation certification (15 of 72)
- Agencies participating in the Q1 program (47 of 72)



**Figure 2**

## TO ACHIEVE ACCREDITATION, DESIGNATED AGENCIES OR NEW APPLICANTS MUST PROVIDE THE OFFICE FOR CHILDREN – THE CHILDREN’S GUARDIAN (OCCG) WITH EVIDENCE THAT DEMONSTRATES HOW THEY MEET THE MANDATORY REQUIREMENTS AND APPLICABLE NSW OUT-OF-HOME CARE STANDARDS.

### NSW Out-of-Home Care Standards

The *NSW Out-of-Home Care Standards* form the basis of the accreditation criteria and are divided into three categories. These are:

- 31 core standards that focus on children and young people, their direct experience of care and the carers that support them
- Eight critical standards that address interagency cooperation and partnerships, and the importance of casework
- 11 significant standards that deal with organisational management, planning and evaluation, and human resources management.

It is necessary to meet all the applicable core and critical standards to achieve accreditation as a designated agency for three years. Proven compliance with all applicable core and critical standards and at least five of the significant standards is required to attain accreditation for the maximum period of five years.

### Quality Improvement Program

The Quality Improvement Program (QI Program) gives participating agencies the opportunity to improve the quality of their out-of-home care over an extended period of time.

The aim of the Program is to gradually prepare and move agencies to the accreditation program.

- 32 agencies are enrolled in the Quality Improvement Program. Three agencies that initially enrolled in the Quality Improvement Program demonstrated that they could achieve accreditation and transferred into the accreditation program. By 30 June 2006, two of these agencies had achieved accreditation for five years.
- Nine agencies in the Quality Improvement Program withdrew upon their own initiative as providers of out-of-home care in NSW in 2005-06. This was mainly attributed to no children or young people being placed with their agencies.
- Extensions were granted to eight of 15 agencies that originally had interim accreditation and had applied to be accredited by 30 June 2006 in order for these agencies to have more time to work to reach compliance with the mandatory accreditation requirements and applicable Out-of-Home Care Standards. One of these 15 agencies did not submit any documentation or evidence for assessment and as a result ceased to be a designated agency at 30 June 2006.

- Four agencies that previously were in the Quality Improvement Program have elected to achieve accreditation by 30 June 2007.
- Agencies that want to continue in the Quality Improvement Program must show they are actively participating through their Annual Progress Report.
- In each Annual Progress Report the participating agencies must demonstrate continuous improvement in the following areas, listed in order of priority:
  1. mandatory requirements and core standards
  2. critical standards
  3. significant standards.

### New organisations

New organisations that wish to provide out-of-home care must be accredited first by the Children’s Guardian and are eligible for up to three years of accreditation.

During 2005-2006, 12 new organisations expressed interest in seeking accreditation. Five organisations submitted full applications for assessment.



## Recognising other forms of accreditation

In some circumstances the Children's Guardian accepts alternative accreditation from other certifiers as evidence that an applicant for out-of-home care accreditation complies with some NSW out-of-home care standards.

The OCCG currently recognises five organisations and seven associated accreditation systems:

- National Childcare Accreditation Council – Family Day Care Quality Assurance
- National Childcare Accreditation Council – Outside School Hours Care Quality Assurance
- National Childcare Accreditation Council – Long Day Care Quality Improvement & Accreditation System
- Quality Improvement Council/Quality Management Systems – Health & Community Services Core Module

- Aged Care Standards and Accreditation Agency
- International Standards Organisation (ISO 9001-2000)
- Department of Family and Community Services – Disability Employment Services Quality Assurance System.

The Children's Guardian accepted alternative certified accreditation of 15 designated agencies during 2004-2005.

## What is planned for the future?

We will undertake an internal review of the Children's Guardian's Accreditation and Quality Improvement systems and processes. This will include:

- A review of all current Children's Guardian out-of-home care policies to prepare for the changes arising from the Children and Young Persons (Care and Protection) Amendment Bill 2006

- A survey of Accreditation Program participants, seeking their views on the current program and areas for improvement
- A literature review and consultation with other agencies and jurisdictions on other relevant accreditation, licencing and regulatory regimes
- Ongoing consultation with DoCS, DADHC, Accreditation Program participants, ACWA and other stakeholders
- Establishing stakeholder working groups to report to the Children's Guardian on specific issues, as required.

## Accrediting Adoption Service Providers

The NSW Office for Children – the Children’s Guardian (OCCG) accredits non-government adoption service providers. We work with charitable or non-profit organisations to improve the situation for children and young people placed for adoption.

Organisations that wish to provide adoption services have to apply to and be accredited by the Children’s Guardian as an adoption service provider.

On 1 July 2005, under sections 10(1) and 206(2) of the Adoption Act 2000, the Director-General of the NSW Department of Community Services (DoCS) delegated the accreditation of adoption service providers to the Children’s Guardian.

During 2005-06, the OCCG and DoCS jointly invited expressions of interest from charitable or non-profit organisations to deliver intercountry adoption services in New South Wales. Advertisements were placed in relevant newspapers and letters were sent to 40 organisations inviting them to attend an information session on 25 November 2005. Interest was demonstrated by the attendance of ten interested parties.

No new organisations wishing to provide adoption services applied for accreditation in 2005-2006.

Existing adoption service providers in NSW are:

- Anglicare Adoption Services
- Barnardos Find-a-Family Adoption Program
- Centacare Adoption Services
- NSW Department of Community Services.

Existing non-government adoption service providers must apply for accreditation using the NSW Adoption Standards by January 2008, as an existing accreditation order will cease to have effect on 30 June 2008.

### What is planned for the future?

The OCCG has commenced and will continue to work with the existing non-government adoption service providers during 2006-2007.





## CHAPTER 3

## Case File Audits

## How we monitor providers of out-of-home care services.

**THE CHILDREN'S GUARDIAN MONITORS DESIGNATED AGENCIES TO MAKE SURE THEY ARE MEETING THEIR RESPONSIBILITIES UNDER THE CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) ACT 1998 (THE ACT) AND THE CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) REGULATION 2000 (THE REGULATION).**

The Case File Audit (CFA) program is one way the NSW Office for Children – the Children's Guardian (OCCG) fulfils this monitoring role.

The program contributes to improving out-of-home care services by:

- giving each agency a report on the results of its case file audit to help improve its casework practice and progress towards accreditation
- providing valuable information about out-of-home care by identifying trends and issues for the whole sector
- identifying areas where staff development and research is required.

- solely to the Minister
- to the Minister and another person
- another suitable person, such as the Principal Officer of a designated agency.

### The target groups

Building on the program we commenced last year, we extended the scope in 2005-2006 to include two additional target groups to make the sample population more representative of the total out-of-home care population.

In addition to auditing the files belonging to children and young people under final Children's Court orders allocating parental responsibility only to the Minister, we audited the files belonging to children and young people whose final court orders allocated parental responsibility to the Minister and another person(s), or a Principal Officer.

In 2006-2007 we will extend the sample to capture children and young people on interim court orders. This inclusion will mean our sample is representative of the NSW out-of-

home care population.

This will provide a baseline from which we can measure improvement in casework practice over time.

### The methodology

From July to December 2005 we audited 748 files at 58 designated agencies.

In April 2005 we asked all designated agencies to tell us how many children and young people were placed that fell into the target groups.

Agencies were categorised according to the number of children and young people they had in the target groups. The number of files we selected for the audit sample was determined by which category an agency fell into<sup>1</sup>.

## The Audit Process

### The NSW out-of-home care population

The out-of-home care population in NSW includes children and young persons on Children's Court orders.

The Children's Court can allocate parental responsibility for children and young persons in out-of-home care:

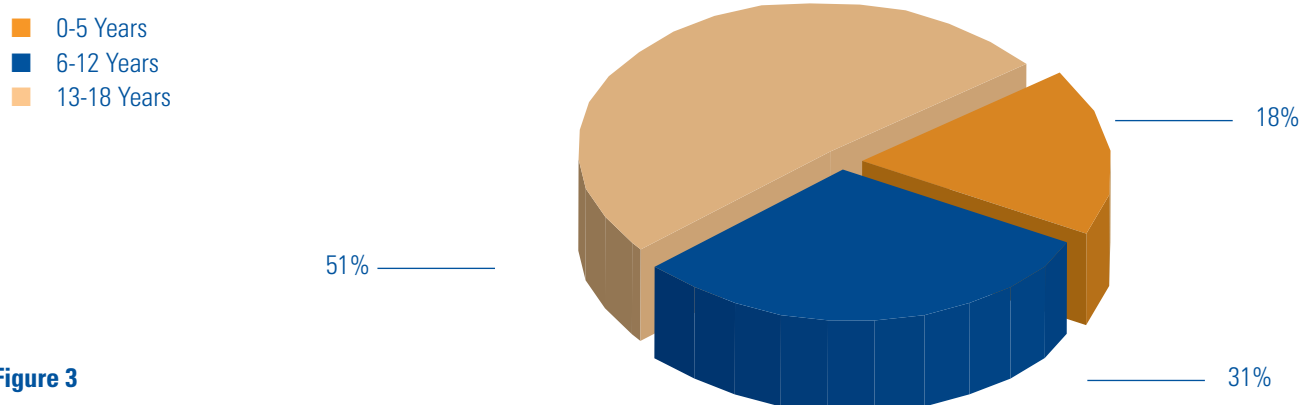
<sup>1</sup>This sampling method is based on advice received from the Centre for Research on Social Inclusion at Macquarie University.



Category	No. of children and young persons in the audit group per agency	Sample Size
Small agencies	Less than 20	Up to 10 files, including 100% of new target groups
Medium	Between 20 and 100	10 files + 100% of new target groups
Large	More than 100	10 files + 100% of new target groups
DoCS	More than 1,000	10% + 100% of new target groups

Officers from the OCCG conducted the audits at the agency's premises. We used a standard audit instrument and provided a copy of the instrument to each agency prior to the day of their audit.

### The 2005-2006 sample population



**Figure 3**

- More than half (51%) of the sample were aged between 13 and 18 years, with children aged 6 to 12 years comprising 31% of the sample, and those between 0 and 5 years comprising 18%.

Age	Small	Med.	Large	DoCS	Total
0-5	16	16	6	94	132
6-12	52	48	21	111	232
13-18	144	73	17	149	383
>18	0	0	0	1	1
<b>Total</b>	<b>212</b>	<b>137</b>	<b>44</b>	<b>355</b>	<b>748</b>

## Indigenous children and young people

- Over a quarter (29%) of the sample population were Indigenous children and young people. This is similar to the proportion in the general out-of-home care population (27%) reported in DoCS' *Quarterly Data June 2005*.
- Indigenous children and young people were placed with 38 of the 58 participating agencies.
- 35% (73) of the Indigenous children and young people are in DoCS placements.

## Gender – Total sample by gender

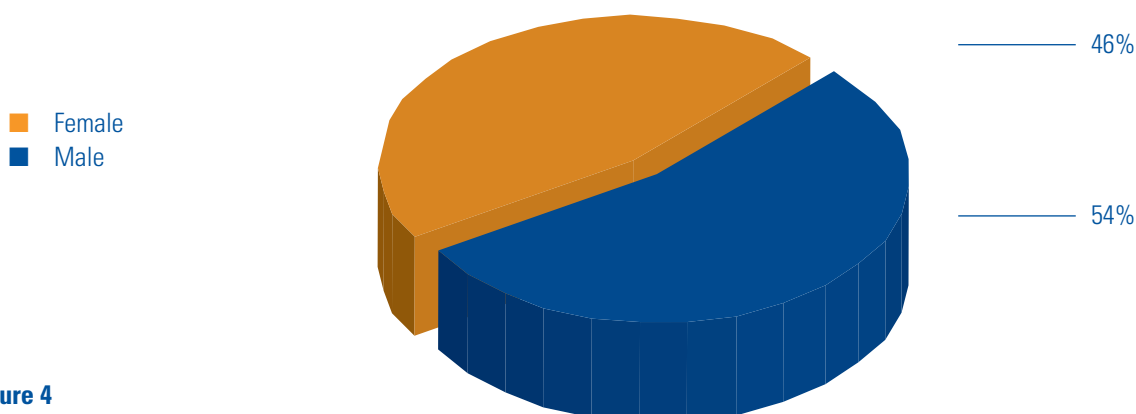


Figure 4

- There are marginally more males than females in the sample. The proportion of males to females in the sample is reflective of the general out-of-home care population.

### Placement type – distribution of sample

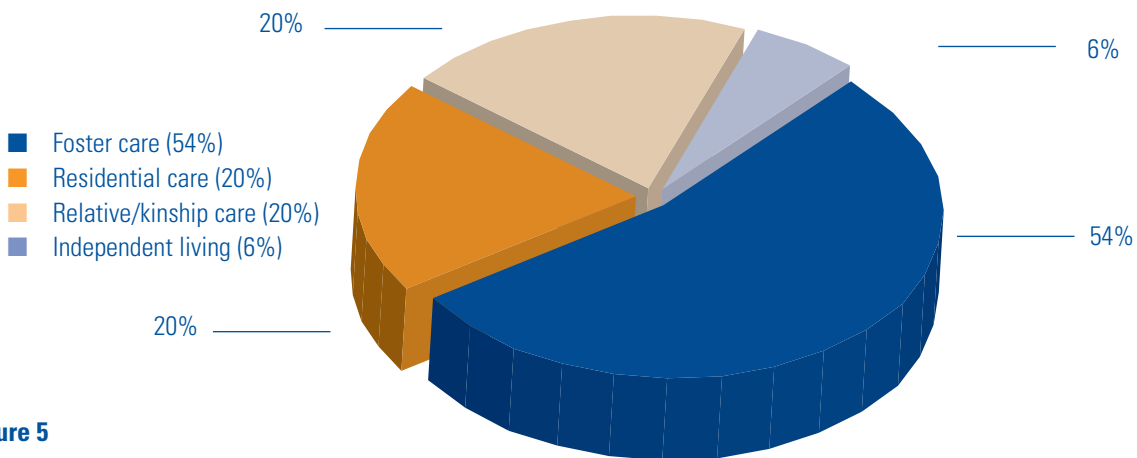


Figure 5

- Just over half (54%) of the sample were in foster care placements.
- Almost all (85%) of the children and young people in residential care were placed with small agencies.

### Parental Responsibility – Distribution of Parental Responsibility

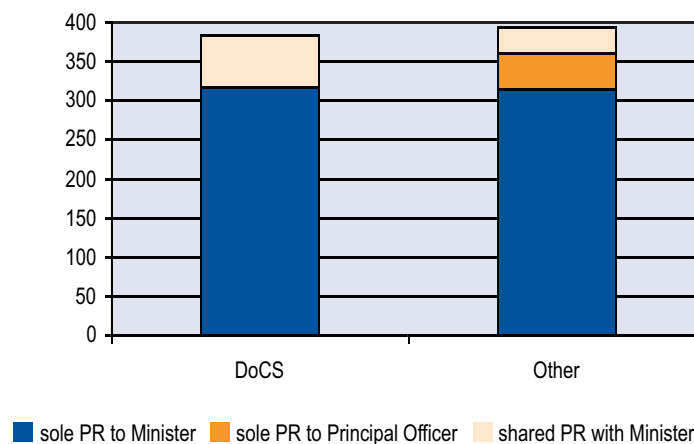


Figure 6

- 94% of the children and young people under court orders allocating sole parental responsibility to the Principal Officer were placed with specialist Aboriginal out-of-home care services.
- Children and young people under the sole parental responsibility of the Minister are evenly distributed in numbers between DoCS and non-government agencies.

## The Results

### Agency compliance

In 2004-2005, the OCCG made recommendations for practice improvement to individual agencies. Given this was the first audit of its kind, and proclamation of section 150 in the Act had only occurred on 31 March 2004, a threshold of 65% compliance was chosen as the point for making recommendations to agencies. The number of recommendations made to individual agencies ranged from one to eight.

In keeping with principles of quality improvement, the compliance threshold was determined at 80%<sup>2</sup> in 2005-2006. Where 80% of the files in an agency were assessed as meeting the requirements against a particular audit item, the agency is considered to have met the threshold level for that particular item.

Items in the audit report against which the agency scored less than 80% are highlighted and the agency is asked to develop and prioritise strategies to address these items. The OCCG will monitor the agency's progress with these strategies through its accreditation program and future case file audits.

### The four key areas of casework practice

The audit tool looks at designated agencies' casework practice in four key areas. These areas were selected because they are fundamental elements of good casework practice.

They are specified in the legislation and designated agencies must comply with them.

The four areas are:

- file content and structure (section 78 of the Act and clause 12 of the Regulation)
- plan/review content (section 150 of the Act)
- participation in case plans and reviews (section 10 and 12 of the Act and clause 36(5) of the Regulation)
- Aboriginal and Torres Strait Islander principles (section 13 of the Act).

### File content and structure

Designated agencies should have enough information on file about the child or young person to properly plan to meet their needs. This information should be kept up-to-date.

Court orders and care plans are particularly important to help the designated agency:

- identify who has parental responsibility and, therefore, who can make decisions for the child or young person
- review care arrangements
- arrange contact with the family and other significant people.

Last year, several agencies told us they were unable to obtain a copy of the court orders for children and young people placed with them. The OCCG pursued this issue with DoCS and a procedure for providing this information to agencies at the point of referral is now in place.

83% of files contained a copy of the court order. This is a 20% increase from the previous year.

### Plan/review content

Every child or young person in care should have a case plan which is regularly reviewed. The case plan or review should clearly identify:

- the child or young person's needs, including health and education
- contact with family and significant others
- issues of cultural/religious significance
- behaviour management issues
- who is responsible for activities in the case plan or review
- timeframes for when responsibilities have to be carried out
- who has overall supervisory responsibility
- when progress of the case plan or review will be assessed.

*83% of files contained a copy of the court order. This is a 20% increase from the previous year.*

<sup>2</sup>According to Gore's National Performance Review: Best Practice in Performance Measurement (1997), the setting of a quality standard with zero tolerance for human error undermines morale and makes goals appear unattainable, particularly where benchmark standards have not been determined and it is not known if 100% compliance is realistically attainable.

# *‘77% of files in the sample group contained a current review or case plan.’*

77% of files in the sample group contained a current review or case plan. This is the same as the previous year.

We found that there were increases in the number of files containing current reviews in most agencies where the Minister has sole parental responsibility, or shares parental responsibility, for the children and young people. The number of files containing current reviews belonging to children and young people under the parental responsibility of the Principal Officer was low and this had a significant impact on the overall results.

## **Participation in case plans and reviews**

All case plans and reviews should be developed through formal case conferences. When developing case plans and reviews, the designated agency should encourage and assist the participation of:

- children aged 7 years and over
- young people
- parents, where appropriate
- carers
- significant others, where appropriate.

In comparison with the 2004-2005 audits we found an overall increase in:

- carers participating in case conferences
- recording the reasons why children and young people did not participate in their reviews
- recording and discussing the views of people who did not attend the case conference
- the number of carers signing the planning and review documentation.

Most agencies had a low compliance rate (less than 50%) in the following areas:

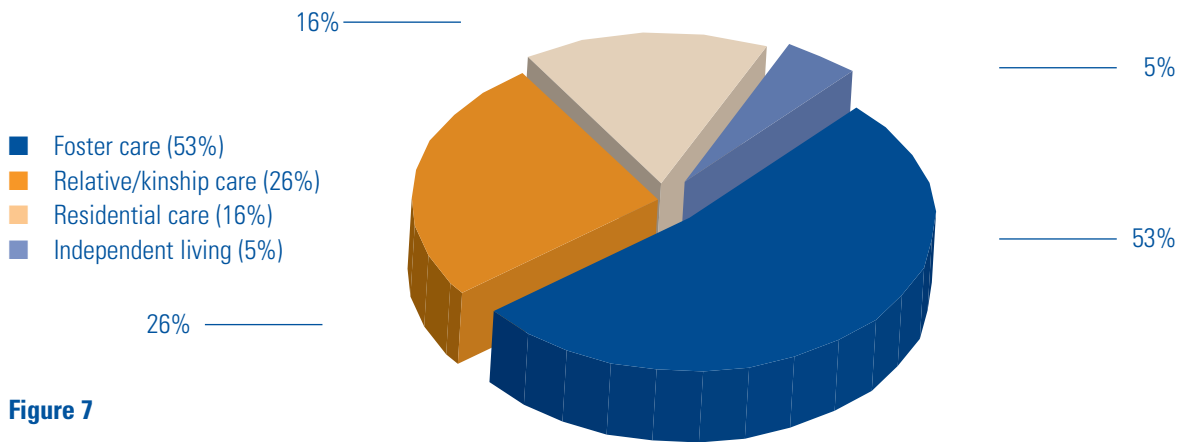
- Documenting the reasons why a carer did not attend a case conference
- Providing opportunities for children, young people, their families and significant others to sign the plans/reviews
- Providing an opportunity for participants to record dissenting views on the case plan/review.

## **Aboriginal and Torres Strait Islander principles**

Designated agencies are required to:

- make sure that the placement of Aboriginal or Torres Strait Islander children and young persons follows the placement principles
- make sure that Aboriginal or Torres Strait Islander people are involved in the decision-making process
- properly document placement decisions.

### Distribution Indigenous sample by placement type



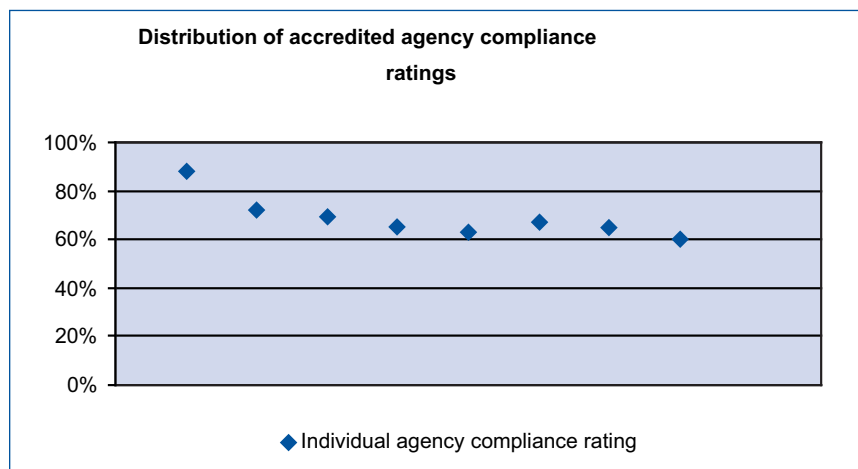
**Figure 7**

- 45% of the Indigenous children and young people within our target groups were placed with the seven specialist Aboriginal services.
- 21% (46) of the Indigenous children and young people are in residential care or independent living placements. In the context of the ATSI placement principles, these placements are not counted as Indigenous placements.
- A larger proportion of Indigenous children and young people (26%) are in relative/kinship placements than non-Indigenous children and young people (18%).
- Where Aboriginal children or young persons were in a non-Indigenous placement, agencies helped them maintain a good level of contact with their culture and community.

## Individual Agency Compliance Ratings

This year, the OCCG introduced a 'compliance rating' for each agency. The compliance rating is calculated by counting the number of items in the individual agency report where the agency reached 80% compliance, then determining the percentage of compliant items against a total of 75 compliance items. This rating allows us to determine how an individual agency has performed in relation to other agencies.

## Accredited agency compliance ratings



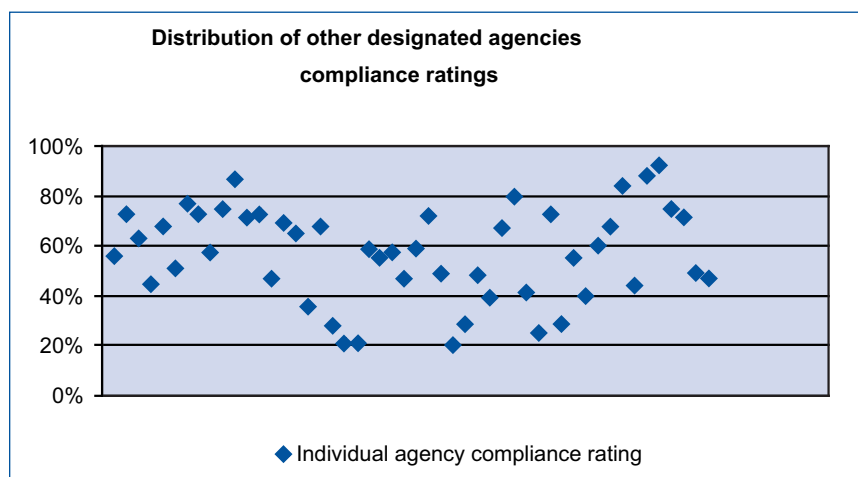
**Figure 8**

- The mean compliance rate for the accredited agencies was 69%.
- Accredited agencies were expected to attain a compliance rate of 80% or more. One agency achieved this.
- Where an accredited agency scored less than 80% against a particular compliance item, they were asked to develop strategies to address these practice areas. Progress with these strategies will be monitored in the 2006-2007 audits.
- All of the accredited agencies reached compliance for currency of reviews and the key area file content and structure.

## Other designated agencies compliance ratings

This group includes 13 designated agencies who were seeking accreditation prior to 30 June 2006 and 36 designated agencies in the OCCG's Quality Improvement Program.

Where agencies in the Quality Improvement Program scored less than 80% against a particular compliance item, we have asked them to develop strategies to address these practice areas. Progress with these strategies will be monitored through each agency's annual reporting and in the 2006-2007 audits.



**Figure 9**

- The mean compliance rate for this group of other designated agencies was 58%.
- 83% of the group of other designated agencies reached compliance for currency of reviews.
- Only 6% of this group of other designated agencies reached compliance for the key area of participation.
- 47% of the other designated agencies scored a compliance rating equal to, or above, those of the eight accredited agencies.

## Issues arising from the audit

### Responsibility for placement reviews

In some instances, where children and young people are placed in non-government designated agencies, DoCS retains case management responsibility for these children and young people.

For DoCS, the OCCG and designated agencies to be able to fulfil their respective statutory obligations, it is essential that the extent of the transfer of responsibility to designated agencies is accurately defined for every placement. Where responsibilities for case management are shared they are not always clearly defined, and this means the child or young person is less likely to have their placement regularly reviewed, or is less likely to participate in decision making processes such as case conferences.

Some designated agencies have questioned the parity of the audit results in situations where DoCS had retained the responsibility for conducting placement reviews under Section 150 of the Act. In response to this, in the 2006-2007 Audit, the OCCG has agreed to audit both agency and DoCS files where Individual Client Agreements or funding specifications state DoCS retains responsibility for conducting placement reviews.

### Psychotropic medication

Designated agencies are required to regularly and systematically review all behaviour management plans developed for children and young people who have high behavioural support needs. These reviews are essential to the effective ongoing implementation of the behaviour management plan, and where applicable, the continuation of psychotropic medication. Where practice deficits exist children and young people do not receive the support they require to meet their needs. Formal systems for monitoring and approving the administration of psychotropic medication to children and young people in care are essential to their wellbeing.

The formalisation of behaviour intervention and support services will be greatly assisted with the introduction of guidelines for non-government agencies requiring approvals and consents for interventions from DoCS. The OCCG has been advised by DoCS that the new guidelines will be implemented in September 2006.

### Meeting educational needs

Designated agencies are required to maintain up to date information about a student's progress at school and regularly monitor each child or young person's educational needs. Compared with the results from the 2004-2005 audit, there was some practice improvement in this area.

### Immunisation Records

In a number of cases, children and young people entering out-of-home care have missed out on scheduled immunisations. Every opportunity should be taken by designated agencies to locate, retain records and check the immunisation status of the children and young people in their care. Where immunisations have been missed, the child or young person should be placed on a catch-up schedule as soon as possible.

It appears that immunisation records are difficult to obtain for children aged nine years or older. This is particularly concerning given the relevant vaccinations for this age group. These include, amongst others, vaccines for hepatitis B, rubella and meningococcal C.



## Participation

Children, young people and their families should be supported by designated agencies to participate in reviews of placement arrangements. This may be by attending case conferences, or by ensuring their views are sought prior to a review and then formally considered, and documented, in the review process.

In comparison with the 2004-2005 audit findings for the non-government agencies, there were less case conferences held to conduct reviews in 2005-2006.

## What is planned for the future?

In 2006-2007 we will expand the target group to include children and young persons on interim or short to medium-term final Court orders. This audit will aim to be representative of the NSW Out-of-Home Care population and will provide the baseline for measuring improvement in casework practice over time.

From 2007-2008 baseline compliance audits will alternate with targeted audits. Targeted audits will complement our understanding of out-of-home care by focusing on particular groups or issues that emerge from the compliance audits.



## CHAPTER 4

# Regulating Children's Employment

## HOW WE AUTHORISE THE EMPLOYMENT OF CHILDREN UNDER 15 YEARS OF AGE IN THE ENTERTAINMENT INDUSTRY, STILL PHOTOGRAPHY ACTIVITIES AND DOOR-TO-DOOR SALES.

The NSW Office for Children – the Children's Guardian regulates the employment of children aged under 15 years in particular industries.

We authorise employers to employ children under the age of 15 in the entertainment or door-to-door sales industries, or for exhibitions or still photography purposes. Authorised employers advise us of individual employment arrangements, which we monitor to ensure employers are meeting their legislative requirements.

### How we monitor Children's Employment

The NSW Office for Children – the Children's Guardian (OCCG) operates under the authority of Chapter 13 and Schedule 2 of the Children and Young Persons (Care and Protection) Act 1998, and the Children and Young Persons (Care and Protection – Child Employment) Regulation 2005.

The legislation states that children under 15 years of age cannot be employed in the entertainment industry, for door-to-door selling and for still photography purposes, unless we authorise the employer or the employer is exempt from the requirement to hold an authority. Authorised and exempt employers must comply with the Code of Practice, which is Schedule 1 of the Regulation.

### Our licensing role

We have a licensing and educative role. It is our job to:

- promote the welfare of children employed in the entertainment industry, exhibitions, still photography and door-to-door sales
- consult with employers if specific safety and welfare issues are identified
- investigate complaints and alleged breaches of the statutory provisions
- educate employers about children's employment.

### Employing young people

We issue authorities to employers for 12 months or, in certain circumstances, one month. We charge an application fee, which varies depending on the employment type and duration of the authority. We may provide a 10% discount if the employer demonstrates a history of commitment to the Code of Practice.

Our staff check that employers are complying with the legislation by:

- assessing pre-employment information
- assessing post production advice on call and release times
- going on site visits.

## What we did for children in employment in 2005-2006

### Authorities

Employers submitted 135 applications for authorities to employ children and requests to confirm entitlement to exemptions:

- two were withdrawn
- five were entitled under the legislation to an exemption from the requirement to hold an authority
- 128 authorities were approved.

The number of authority applications was down 10% compared to last year (128 compared to 141).

Consistent with previous years, almost all authorities processed were for entertainment and exhibition (95% - 121 out of 128), which includes film, television, still photography and live theatrical performances. The remainder of authorities (5% - 7 out of 128) were for still photography.

The majority of the approved authorities were for one year (66% - 84 out of 128), the maximum period allowed under the legislation before another application is required (see Figure 10).

We collected \$106,455.80 in fees for authorities from employers. Revenue from fees varies depending on the number of employers who are exempt and the type of authority, its duration and whether the applicant is entitled to discount under the legislation.

We approved discounts for 52% (67 of 128) of the authorities issued, the majority for 12 months (see Figure 11).

### Authorities to employ children by duration

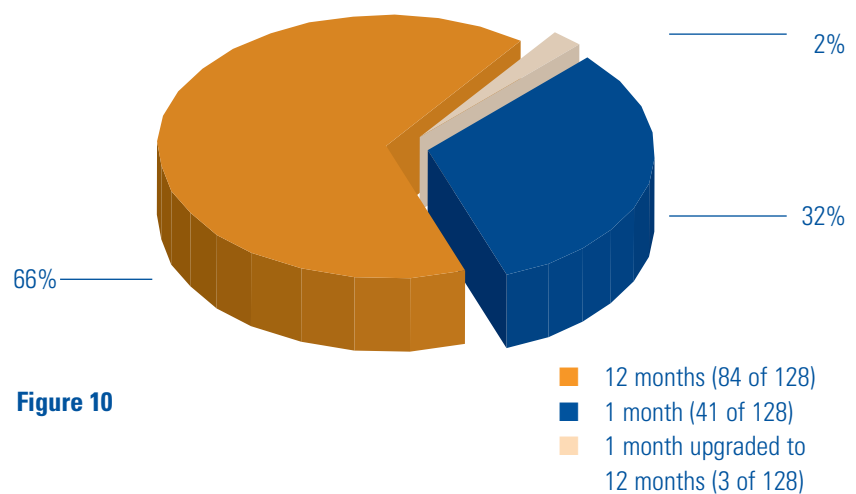


Figure 10

### Fee discounts by Authority duration type

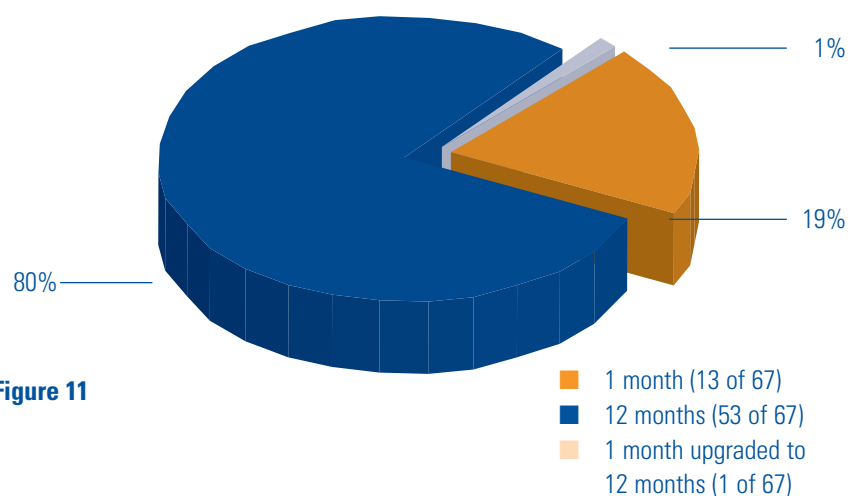


Figure 11

## Commitment to Service

The OCCG aims to process all correspondence within 14 calendar days. Children's Employment processed 94% (127 of 135) of all authority applications and exemption confirmations within this target (see Table 1a). The main reasons for delays were incorrect payment and insufficient information from applicants (see Table 1b).

**Table 1a**

Applications processed within 14 days		
Within 14 days	127 of 135	94%
Within 5 days	116 of 135	86%
Within 3 days	106 of 135	79%
Same day	45 of 135	33%

**Table 1b**

Processing over 14 days	
Incorrect payment	3
Additional information required	2
Delayed payment	1
Application withdrawn	2

## Monitoring employer compliance

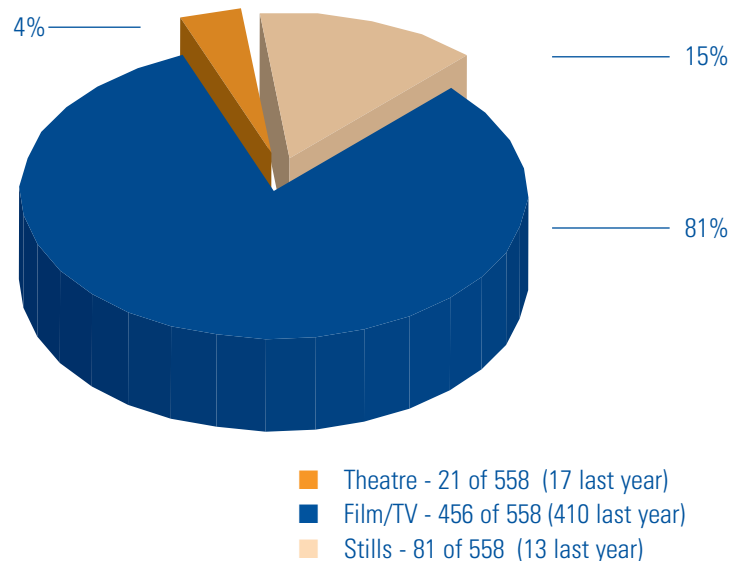
Authorised employers advised the OCCG of 558 productions where children were employed, a 27% increase compared to last year (440 productions). The majority of the productions (82% - 456 of 558) were in the film and television industries, which includes commercials.

The number of still photography productions increased significantly this year (523% - 81 compared to 13 last year).

It is the main cause of the increase in the total number of productions notified to the OCCG this year, although film and television productions also increased (see Figure 12).

It is likely that OCCG communication regarding the 2005 Regulation raised employer awareness of the longstanding requirement that employers must notify the OCCG when employing children for still photography.

**Productions by industry type**



**Figure 12**

The majority of film and television productions were either commercials or TV series episodes (see Figure 13).

Employers also contacted the OCCG regarding a further 63 productions which were cancelled, postponed, or outside our legislative mandate (eg child not paid or child 15 years of age or older), or ultimately did not involve children.

The OCCG may approve variations to the requirements of the Code of Practice in certain circumstances. Some productions require multiple variations (eg for more than one occasion or for more than one clause of the Code). The OCCG only agrees to variations if:

- the employer demonstrates compliance with other key aspects of the Code (eg the relevant educational authority has approved, if a child will be absent from School)
- the variation is requested in advance and the employer demonstrates that the child's welfare will not be compromised
- the employer confirms that the child's parent agrees with the request.

Variations were approved for 29% of productions (164 of 558) during the year. Film and television, particularly commercials, accounted for most of the productions with variations (85%). Theatre had the highest proportion of productions requiring variations, mainly because it is characterised by performances outside school hours, often at night, and over extended periods.

Last year 43% of all productions required variations. The most likely cause of the decrease this year is the impact of the Regulation introduced on 1 April 2005. One of the aims of the 2005 Regulation was to streamline requirements for employers, without compromising the welfare of child employees.

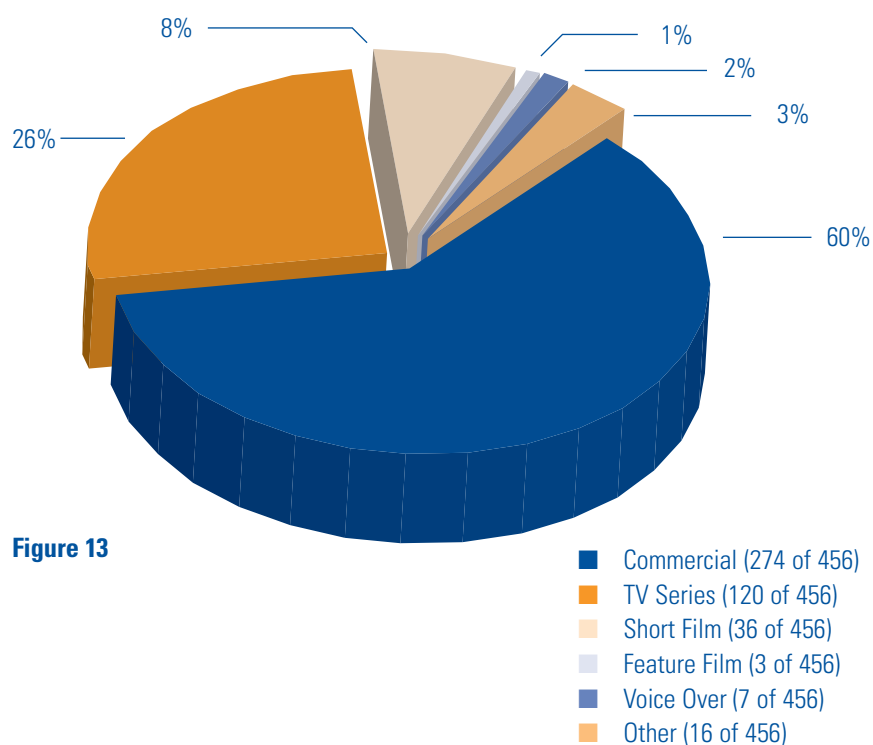
We investigated 28 productions for possible unauthorised employment or failure to comply with the Code of Practice. Five matters resulted in a breach being recorded and 23 matters resulted in a warning or other remedial action.

Our staff made one or more site visits to 23 productions, a 28% increase compared to last year. We make site visits where an unusual risk is identified, either by the employer or by our staff. We also visit productions where the employer has limited experience in children's employment to help them understand their legislative responsibilities.

We met with employers or other stakeholders on 14 occasions to promote our role or discuss child employment issues. These included:

- meetings between the Children's Guardian and our counterparts in Victoria and Queensland to better understand recent changes to their child employment legislation
- meetings with the Australian Entertainment Industry Association and the NSW Film and Television Office to discuss the 2005 Regulation
- five meetings with different employers to discuss compliance issues or to present information to their staff regarding the Code of Practice.

**Film and television productions by type**





## What is planned for the future?

Our priorities for Children's Employment in 2006-2007 include:

- liaising with our counterparts in Victoria, Queensland and the Australian Capital Territory regarding child employment legislation and issues
- convening round table discussions with entertainment industry representatives to discuss routine operational issues and options for improvement
- implementing tools and information resources for employers and parents
- continuing work with still photography employers regarding the legislative requirements for employing children
- improving internal documentation of our processes and procedures
- developing an IT support system to streamline processing and facilitate records management.

These initiatives will protect the interests of employed children and improve efficiencies and services to employers.

### Service improvements

We continued to implement the new Regulation by:

- assisting employers to understand the changed requirements
- liaising with the Department of Education to assist in meeting the new schooling requirements
- testing a tool with employers that helps calculate the 40 hour cap on combined employment and schooling hours
- working with existing and new employers who employ children for still photography to help them comply with the legislation.

To improve our services we:

- installed technology that allows OCCG staff to process credit card payments and some electronic fund transfers, to further reduce processing time for applications and payments for authorities
- continued refining data and administrative systems to improve our monitoring and reporting capacity in children's employment.



## CHAPTER 5

# Setting an Example

## HOW WE PROMOTE THE BEST INTERESTS AND RIGHTS OF CHILDREN AND YOUNG PEOPLE IN OUT-OF-HOME CARE.

We work together with children and young people, their families and carers, government agencies, community based organisations and employers.

The Office of the Children's Guardian is a small government department with staff from a range of multi-disciplinary backgrounds but one shared purpose – to promote the best interests of children and young people.

### Communication and education activities

#### Information for agencies, interstate and overseas visitors

Throughout the year we provided information about our role and our work to a number of interstate and overseas visitors. The Children's Guardian and staff from the Office of the Children's Guardian addressed a range of seminars and conferences.

Staff participated in meetings and presented information to representatives from a number of organisations. These include:

- Aboriginal Child, Family and Community Care Secretariat
- Aboriginal Trust Fund Repayment Scheme
- Australian Barnardos Recruitment Services (ABRS)
- Association of Children's Welfare Agencies (ACWA)
- Aged Care Standards and Accreditation Agency
- Australian Council for Educational Research
- Centre for Community Welfare Training
- Children's Court Magistrates
- Children's Hospital Randwick
- Community Visitors
- Department of Ageing Disability and Home Care (DADHC) including Children's Consultants
- Department of Community Services (DoCS) including the Adoption Branch, Research Funding and Business Analysis, Operations Branch, Policy Branch
- Foster Carers Association
- Institute of Psychiatry
- Office of the Advocate for Children in Care, Melbourne
- Media Entertainment and Arts Alliance
- National Child Care Accreditation Council
- NSW Film and Television Office
- NSW Ministry for the Arts
- NSW Ombudsman's Office
- NSW Premiers Department (Grants Administration Reform Group)
- Queensland Commission for Children and Young Persons
- Victorian Department of Innovation, Industry and Regional Development

During 2005-2006 staff from the Office of the Children's Guardian participated in a number of events including:

- ACWA Critical Changes Forum
- ACWA Research ForumNSW Foster Care Awards
- Adoption Accreditation Information Seminar
- APACC Conference ISPCAN 15th Annual Congress on Child Abuse and Neglect
- Barnardos Mother of the Year Awards
- Children's Week Awards
- Corporate Governance in the Public Sector Conference
- DoCS and DADHC staff selection panels
- DoCS Indigenous Staff Conference
- Foster Care Picnic
- Foster Carers' Conference, Ballina
- Joint Initiative Group Information Privacy Seminar
- Joint Initiatives Group
- NSW Education Partnership Project meeting – convened by CREATE
- Selection Panel for the Guardian ad Litem NSW
- Meeting on Education for Children and Young Persons in Care.
- Structured Decision Making Model for Case Work Conference
- Tamworth Aboriginal Community Forum

## Kids' art

For the fifth year we co-sponsored 'Operation Art' showcasing the artistic talents of children and young persons. 'Operation Art' is an initiative of the NSW Department of Education and Training and the Children's Hospital at Westmead.

60 young artists had their work on display in our office. Some of the artwork has since been published and reproduced on publications such as our annual reports, brochures, postcards and promotional items.

## Our students

During 2005-2006 we employed one TAFE student as a trainee. For six months she undertook full time administrative work.



# Appendix A – Designated Agencies

## Designated Agencies Accredited for 5 Years (14)

- Barnardos Australia
- The Burdekin Association Inc
- UCA Burnside (Uniting Care Burnside)
- Southern Youth and Family Services Association Inc
- Stretch-A-Family Inc
- The Uniting Church in Australia Property Trust (NSW) (Wesley Dalmar Child and Family Care)
- Sydney Anglican Home Mission Society Council (Anglicare Diocese of Sydney)
- Phoenix Rising for Children Pty Ltd
- Caretakers Cottage Inc
- Centacare Catholic Community Services Archdiocese of Sydney
- Baptist Community Services - NSW & ACT
- Lutanda Children's Services
- Centacare (Newcastle)
- Centacare Catholic Family Services Diocese of Broken Bay

## Designated Agencies Accredited for 3 Years (3)

- For-Most Social Services Pty Ltd
- Allcare Youth Services Pty Ltd
- Lifestyle Solutions (Aust) Ltd

## Designated Agencies Accredited for 1 Year (1)

- Youth First Pty Ltd

## Designated Agencies applying for accreditation by 30 June 2006 & received extension of time (7)

- Bankstown Handicapped Children's Centre Association Inc
- Caringa Enterprises Inc
- Life Without Barriers
- Mallee Family Care Inc
- Marist Youth Care Ltd
- St Saviours Neighbourhood Centre (Anglican Youth and Family Services)
- United Protestant Association of NSW Limited

## Designated Agencies applying for accreditation by 30 September 2006 (1)

- Catholic Family Welfare Services (Centacare Wollongong)

## Designated Agencies applying for accreditation by 30 June 2007 (4)

- Community Connections North Coast
- For the Children Ltd
- Great Mates Ltd
- Wendy's Home Services Pty Ltd

### Designated Agencies in the Quality Improvement Program (32)

- Aboriginal Children's Services Ltd
- Allambi Youth Services Incorporated
- Armidale Youth Refuge Inc
- Biripi Aboriginal Corporation Medical Centre
- Burrun Dalai Aboriginal Corporation Inc
- Church of Christ Greenacre (Nick Kearns House)
- Community Work Pty Ltd (Meeting Ever Changing Needs)
- Disability Enterprises Leura
- Havenwax Pty Ltd (SOS Home Help & Cleaning Agency)
- Hunter Aboriginal Children's Services Inc
- Impact Youth Services Pty Ltd
- Kari Aboriginal Resources Inc
- Links Youth & Disabilities Services Pty Ltd
- Macleay Kalipso Inc
- Maitland Youth Crisis Services Incorporated
- Neville Bush Holdings Pty Ltd (Complete Care Team)
- Ngunya Jarjum Aboriginal Corporation
- North Coast Children's Home Inc
- NSW DADHC
- NSW DoCS
- Premier Youthworks Pty Ltd
- Samaritans Foundation Diocese of Newcastle
- Shire Community Initiatives Incorporated
- CareSouth
- South Coast Medical Service Aboriginal Corp
- St Josephs Cowper Inc
- Sydney Stepping Stone Inc
- Trustees of the Christian Brothers (Edmund Rice Community Services)
- Trustees of the Missionary Sisters of the Blessed Virgin Mary Queen of the World (Missionary Sisters of Queen Mary)
- William Campbell College
- Wundarra Services Pty Ltd
- Youth off the Streets Incorporated

### New organisations applying for accreditation (12)

- Ability Options Pty Ltd
- Alpha Support Services Pty Ltd
- Bajek Pty Ltd
- Bridge Back to Life
- Care Unlimited
- Gateway Support Services Pty Ltd
- Link Up
- Pacific Flava
- Progressive Path Pty Ltd
- Sunnyfield Association
- The Hills Association for the Intellectually Disabled Limited (Interaction Disability Services Ltd)
- Youth Directions Pty Ltd

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# Glossary

ABSEC	Aboriginal Child, Family and Community Care State Secretariat
ACCAN	Australasian Conference on Child Abuse and Neglect
CCYP	NSW Commission for Children and Young People
ACWA	Association of Childrens Welfare Agencies
ADT	Administrative Decisions Tribunal
CALD	Culturally and Linguistically Diverse
CCSU	Central Corporate Services Unit at the NSW Department of Commerce
CREATE Foundation	An organisation which represents the interests of children and young persons in care
DADHC	NSW Department of Ageing, Disability and Home Care
Designated agency	An organisation which is accredited by the NSW Office of the Children's Guardian to place or arrange the placement of a child or young person in out-of-home care.
DET	NSW Department of Education and Training
DoCS	NSW Department of Community Services
DoH	NSW Department of Health
EEO	Equal Employment Opportunity
FOI	Freedom of Information
ISPCAN	International Congress on Child Abuse and Neglect
MAC	Ministerial Advisory Committee
NCOSS	NSW Council of Social Services
OCCG	NSW Office for Children – the Children's Guardian
OOHC	Out-of-home care
QIP	Quality Improvement Program
SES	Senior Executive Service
TAFE	Tertiary and Further Education
WRAPP	Waste Reduction and Purchasing Policy