

Committee on
Children and Young People



PARLIAMENT OF
NEW SOUTH WALES

2022 Review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian



Report 5/57 – October 2022

New South Wales Parliamentary Library cataloguing-in-publication data:



A catalogue record for this
book is available from the
National Library of Australia

ISBN: 978-1-925214-19-2

The motto of the coat of arms for the state of New South Wales is “Orta recens quam pura nites”. It is written in Latin and means “newly risen, how brightly you shine”.

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Chair's foreword

I am pleased to present the Committee's 2022 review of the annual reports of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian. As an oversight committee, the Committee on Children and Young People monitors the functions of these two statutory agencies, as outlined under section 37 of the *Advocate for Children and Young People Act 2014* and section 8AC of the *Children's Guardian Act 2019*.

The Committee found that the Advocate for Children and Young People continues to fulfil its functions and promote the voice of children and young people in NSW.

The ACYP has undertaken valuable consultation work with children and young people during the reporting period. We recommend that the ACYP's future reports include more data on the number and types of consultation undertaken. We were pleased with the ACYP's work in encouraging government and non-government organisations to incorporate the voice of children and young people in decision making.

We also congratulate the Advocate on the completion of the *NSW Strategic Plan for Children and Young People 2022-24*. The ACYP will report annually on statewide progress to meet the Strategic Plan targets, and these reporting arrangements will assist government and non-government agencies in their efforts to achieve better outcomes for children and young people in NSW.

The Committee's oversight of the Advocate for Children and Young People (ACYP) also includes its work with the Youth Advisory Council (YAC). The Committee notes that the ACYP has appropriately supported the YAC during the reporting period.

This report also outlines the Committee's oversight of the Office of the Children's Guardian (the OCG), which focuses on the OCG's administration of the Working with Children Check, Reportable Conduct Scheme and the new Child Safe Scheme. We found that the OCG has appropriately fulfilled its responsibilities in administering these important schemes for protecting children in NSW.

Several legislative changes were introduced during the reporting period. The Working with Children Check scheme was amended by the Child Protection (Working with Children) Amendment Bill 2022. This made several improvements to the scope and function of the Check. The Reportable Conduct Scheme was amended as part of the implementation of the Child Safe Standards, which widened its scope.

We note that both amended schemes are functioning well, and that the OCG has received funding for additional staff to support the increased scope of these two functions. We recommend that the Treasurer monitor the needs of the OCG as its work and responsibilities expand under the Child Safe Scheme, and increase funding as appropriate.

Significant progress was made in implementing the Child Safe Standards during this reporting period. The Children's Guardian Amendment (Child Safe Scheme) Bill 2021 was passed. It conferred additional functions on the OCG, aimed at embedding the Child Safe Standards as the primary framework for guiding child safe practice in NSW. The Committee considers that

ongoing work to implement the Standards will strengthen the ability of organisations to provide safe and secure environments for children. The Bill also gave the Committee additional oversight functions. These will allow the Committee to monitor the Guardian's administration of the Child Safe Scheme as it is implemented across child-focused organisations in NSW.

I would like to thank the Youth Advisory Council, Advocate for Children and Young People, Ms Zoë Robinson, and the Children's Guardian, Ms Janet Schorer, and their staff, for working to protect and represent children and young people across NSW. I also thank Committee members for their contributions to this annual review, as well as Committee staff for their work and professionalism.

Mr Peter Sidgreaves, MP
Chair

Findings and recommendations

Finding 1	1
The Office of the Advocate for Children and Young People is fulfilling its functions and adhering to its governing principles, as specified in the <i>Advocate for Children and Young People Act 2014</i> .	
Recommendation 1	4
That in light of evidence provided to the inquiry and other research available in the public domain regarding the growing trend of school students using e-cigarettes or 'vapes', the Committee write to the Office of the Advocate for Children and Young People and request the Advocate for Children and Young People, through ongoing consultations, to collect information relating to this matter and report back on findings to the 2023 public hearing.	
Finding 2	6
Annual reporting on the NSW Strategic Plan for Children and Young People 2022-2024 will be a valuable tool for tracking statewide progress in improving outcomes for children and young people in NSW.	
Recommendation 2	8
That the Office of the Advocate for Children and Young People provides data on the number of children and young people it consults with each year in its annual reporting.	
Recommendation 3	12
That the Office of the Advocate for Children and Young People consider evaluating the Our Local online platform and, if appropriate, developing a similar resource.	
Finding 3	16
The Office of the Children's Guardian is fulfilling its functions, as specified in the Child Protection (Working with Children) Act 2012 and the Children's Guardian Act 2019.	
Recommendation 4	23
That in light of evidence provided to the inquiry and the ongoing growth of children and young people working in the "gig economy", the Committee write to the Office of the Children's Guardian and request the Children's Guardian to review the matter in detail and report back on findings to the 2023 public hearing.	
Recommendation 5	26
That the Treasurer and relevant Minister monitor the needs of the Office of the Children's Guardian as its work and responsibilities expand under the Child Safe Scheme, and increase funding as appropriate.	

Chapter One – Office of the Advocate for Children and Young People

Oversight of the Office of the Advocate for Children and Young People

Finding 1

The Office of the Advocate for Children and Young People is fulfilling its functions and adhering to its governing principles, as specified in the *Advocate for Children and Young People Act 2014*.

- 1.1 Section 37 of the *Advocate for Children and Young People Act 2014* (the ACYP Act) outlines the responsibilities of the Committee on Children and Young People.
- 1.2 One of the Committee's responsibilities is to examine the annual reports of the Office of the Advocate for Children and Young People (ACYP), and monitor and review the ACYP in the exercise of its functions outlined in the ACYP Act. According to Part 3 of the ACYP Act, the Advocate's work is governed by principles that emphasise the need to give serious consideration to the views of children and young people, and that their safety, welfare and wellbeing is of paramount importance.
- 1.3 The Committee held a hearing on 24 June 2022 in relation to its review of the ACYP's annual report. The Advocate for Children and Young People, Ms Zoë Robinson, appeared before the Committee, and was joined by Ms Shannon Longhurst (Acting Director, ACYP).
- 1.4 The Committee also heard from representatives from the Youth Advisory Council: Ms Lua Pellegrini (current Chairperson), Ms Julie Charlton (2020/21 Chairperson) and Mr Mohmd Alsomay (Member). The Committee is grateful to the Youth Advisory Council for their appearances during the 57th Parliament, and we thank Ms Pellegrini, Ms Charlton, and Mr Alsomay for their contributions to this inquiry.
- 1.5 The Committee found that the ACYP is fulfilling its functions and adhering to its governing principles, as specified in the ACYP Act.
- 1.6 In particular, we note the valuable consultation work that the Advocate conducted during the 2020-21 reporting period on a range of significant issues that affect children and young people. We have recommended that future annual reports of the ACYP include data on the number of children and young people that are consulted each year.
- 1.7 We also commend the Advocate on the completion of the *NSW Strategic Plan for Children and Young People 2022-2024*, and are pleased to hear that the ACYP will report annually on how NSW is tracking against the Strategic Plan's targets.
- 1.8 The Committee is pleased to report that no issues were raised by the Advocate about the operation of the ACYP Act and the powers of the ACYP. The Youth Advisory Council (YAC) continues to be well-supported by the Office of the

Advocate, and the Committee is confident that both organisations are effectively communicating the voices of children and young people to government and non-government organisations.

- 1.9 This chapter summarises the Committee's review of the 2020-21 Annual Report of the ACYP, and other matters relating to the work of the ACYP. Beginning with an overview of emerging issues affecting children and young people, the chapter examines the initiatives, consultation and collaborative work of the ACYP and YAC during the 2020-21 reporting period.

Issues affecting children and young people

- 1.10 Under the ACYP Act, the Committee may examine trends and issues affecting children and young people in NSW.
- 1.11 In this year's review, the Committee heard evidence from the ACYP and the YAC about several areas of concern for children and young people. This includes cyber-bullying and online safety, vaping in schools, and the mental health of children and young people.

Cyber-bullying, online security and the impacts of social media

- 1.12 The Committee was interested in the online experiences of children and young people, particularly their engagements with social media and the ways in which their online security and safety could be improved.
- 1.13 This has been an area of interest for the Committee for some time. In last year's annual review, members of the YAC told us that it can be difficult for young people to 'turn off' social media, because being online is central to their education and their relationships with their peers. Because of this, cyber-bullying and other mental health impacts are hard to avoid.¹
- 1.14 In this year's review, the Advocate and the YAC told us about the concerns that children and young people have about cyber-bullying and online safety.
- 1.15 The YAC described how there are many positive aspects to using social media. This includes informing children and young people about local events and activities, raising awareness of causes relevant to them, and being a platform for 'elevating their voices and finding out what topics and issues they are passionate about.'²
- 1.16 Ms Julie Charlton, 2020/21 Chairperson, YAC, noted that these positive aspects of social media were also identified by the school students that the YAC consulted with during the reporting period. She also noted that social media has value as an advocacy tool. For example, we heard that the YAC have worked with Save the

¹ Committee on Children and Young People, Report 3/57 - [2021 Review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian](#), October 2021, p 22.

² [Answers to questions on notice](#), Youth Advisory Council, 27 July 2022, p 1.

Children and used social media to share and promote the work of children and young people working in that organisation.³

- 1.17 However, the Advocate and the YAC also emphasised the negative dimensions of social media – it can be 'toxic' for children and young people, and young people recognise that social media 'is not a safe space and some bad things happen' online.⁴
- 1.18 In her evidence to the Committee, Ms Robinson told us about the range of concerns children and young people have regarding social media. This included experiences of online bullying and harassment, and concerns about the spread of misinformation online. She also mentioned that young people may not trust social media companies, and have concerns about data mining and 'how their information is being used.'⁵
- 1.19 Children and young people can have innovative solutions to the challenges presented by social media. Ms Robinson described how a young person compared social media with online banking, where certain words can be blocked in a transaction to prevent financial abuse. The young person believed that social media could also have filters to remove harmful or offensive language.
- "When we sign up to social media, why we can't block those words that we don't want to hear about, or things like that?"⁶
- 1.20 The Committee was pleased to hear that the ACYP have been proactive in engaging with government on this issue. Ms Robinson said the ACYP have worked with children and young people and the Minister for Education and Early Childhood on an anti-bullying roundtable, in order to 'sense check some of the ideas that they have had, and then try and take that to some of the social media companies.'⁷
- 1.21 We also heard that the ACYP has worked with the Office of the eSafety Commissioner (eSafety) on cyber-bullying. The Committee heard that the ACYP contributed to the establishment of a youth advisory council within eSafety, and helped promote eSafety material through the ACYP's Digital Lunch Break platform.
- 1.22 The Committee notes that social media and the online safety of children and young people features prominently in the *NSW Strategic Plan for Children and Young People 2022-24* (discussed below). Given that being online is an inevitable part of the lives of young people in NSW, and that their online experiences can

³ Ms Julie Charlton, [Transcript of Evidence](#), 24 June 2022, p 14; [Answers to questions on notice](#), Youth Advisory Council, 27 July 2022, p 1.

⁴ Ms Zoë Robinson, Advocate for Children and Young People, [Transcript of evidence](#), 24 June 2022, p 2; [Answers to questions on notice](#), Youth Advisory Council, 27 July 2022, p 1.

⁵ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 2.

⁶ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 2.

⁷ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 2.

have significant mental health impacts, we were pleased to learn that a specific consultation project on this has been included in the Strategic Plan.⁸

- 1.23 We look forward to hearing more about the ACYP's advocacy work on social media regulation in future annual reviews.

Vaping in schools

Recommendation 1

That in light of evidence provided to the inquiry and other research available in the public domain regarding the growing trend of school students using e-cigarettes or 'vapes', the Committee write to the Office of the Advocate for Children and Young People and request the Advocate for Children and Young People, through ongoing consultations, to collect information relating to this matter and report back on findings to the 2023 public hearing.

- 1.24 The Committee was concerned about the growing trend in school students who are using e-cigarettes or 'vapes'. We asked the Advocate and the YAC about the work they were doing around vaping, and any measures that can be taken to address its potential health impacts on children and young people.
- 1.25 Ms Lua Pellegrini, Chairperson, YAC, noted that vaping fluid can contain heavy metals, and contains the highly addictive substance nicotine. She described how many young people are addicted to vaping and 'don't know how to stop, nor do they really want to'.⁹
- 1.26 At their meetings, the YAC have also discussed the use of vapes among young people. Mr Mohmd Alsomay, Member, YAC, told the Committee that the highest proportion of e-cigarette use is in the 18-24 age bracket. 5.3% of people aged between 18 to 24 years use vapes, compared with 4.8% of people aged between 25 to 29 years.¹⁰
- 1.27 Ms Robinson described a consultation that she has recently conducted in a regional town. She noted a statistic that suggested that 'nine out of 10 young people don't vape'. However, the young people she consulted believed that the opposite was more likely – that it was closer to nine out of 10 young people who do vape.¹¹
- 1.28 The Committee heard that there are challenges in preventing vaping amongst young people. The YAC members told us that there is limited research in this area. As Ms Pellegrini noted, public health messaging often tells young people that 'We don't know the long-term effects of vaping', which is not necessarily an effective and 'stern warning against vaping'.¹² Mr Alsomay told us that there is

⁸ Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), p 46.

⁹ Ms Lua Pellegrini, Chairperson, Youth Advisory Council, [Transcript of evidence](#), 24 June 2022, p 16.

¹⁰ Mr Mohmd Alsomay, Member, Youth Advisory Council, [Transcript of evidence](#), 24 June 2022, p 16.

¹¹ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 7.

¹² Ms Pellegrini, [Transcript of evidence](#), 24 June 2022, p 16.

not 'enough research regarding vaping in young people, and there is definitely more research to be done'.¹³

- 1.29 The Advocate told us that she sits on a cross-government agency committee group which provides advice to NSW Health and the NSW Department of Education about strategies to address vaping in young people. She noted that the ACYP is continuing to work with the government on this issue.¹⁴
- 1.30 We heard that the YAC consulted with NSW Health about current anti-vaping campaigns. This included reviewing and providing comments on the "Do you know what you're vaping?" campaign materials. Ms Pellegrini described how the YAC advised NSW Health that campaign posters should be laminated and placed on the back door of bathroom stalls, for young people to read and reflect on.¹⁵
- 1.31 The ACYP mentioned that there are currently some preventative measures that have been introduced to address vaping in schools. For example, there are some schools that have installed smoke detectors in bathrooms that can detect when students are vaping. The Advocate told the Committee that there is 'a lot of ongoing work that we need to do' in educating the community on the impact of vapes, including parents.¹⁶
- 1.32 The Committee acknowledges that more work needs to be done across government to protect the health and wellbeing of children and young people from the impacts of e-cigarettes. The Committee will continue to monitor the ACYP and YAC's work in this area.

Mental health considerations for children and young people

- 1.33 In addition to the mental health impacts of social media and cyber-bullying, the Advocate and YAC described children and young people's broader concerns about their mental health, and the related supports and services that they have access to.
- 1.34 Ms Charlton, 2020-21 Chairperson, noted that 'mental health disparities' has been a topic of discussion at YAC meetings.¹⁷
- 1.35 In particular, the COVID-19 pandemic has had significant impacts on the mental health of children and young people. The YAC told the Committee that public health orders have meant young people have been isolated and deprived of social interaction for long periods of time. As these restrictions have eased, young people have often experienced increased social anxiety:

Some young people have gone from having no social interaction with their peers to what seems like an overwhelming amount of social interaction with the return to

¹³ Mr Alsomay, [Transcript of evidence](#), 24 June 2022, p 16.

¹⁴ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 7.

¹⁵ Ms Lua Pellegrini, [Transcript of evidence](#), 24 June 2022, p 16.

¹⁶ Ms Zoë Robinson, [Transcript of evidence](#), 24 June 2022, pp 7-8.

¹⁷ Ms Julie Charlton, [Transcript of evidence](#), 24 June 2022, p 12.

school in such a short period of time and this can often leave young people feeling socially fatigued and more inclined to want to spend time alone.¹⁸

- 1.36 The Advocate told us about some of the supports that are available in schools. In addition to support from teachers, Ms Robinson identified other trusted advisers such as Wellbeing and Health In-reach Nurses (WHIN), counsellors, year coordinators, and visiting organisations such as the Clontarf Foundation and those that provide therapy dogs.¹⁹
- 1.37 Ms Robinson also drew the Committee's attention to the 'Health and wellbeing' section of the *NSW Strategic Plan for Children and Young People 2022-24* (discussed further in the next section). The Strategic Plan targets a reduction in suicide and self-injury, improvements in access to youth-specific drug and alcohol services, and reductions in waiting times for professional mental health supports.²⁰
- 1.38 During consultations for the Strategic Plan, children and young people discussed how they wanted better formal supports to improve their mental health. The Advocate told us that investment in these supports is 'absolutely crucial'. For example, the Advocate highlighted that waitlists for some services are long, and additional supports are needed as part of 'the post-COVID response' and for 'children and young people in addiction'.²¹
- 1.39 The YAC also reported their concerns that there is a 'lack of accountability and response from service providers'. In answers to supplementary questions, the YAC told the Committee that young people are frustrated at being told they are unable to access key services, or that these services have long wait times, due to the pandemic.²²
- 1.40 While young people's access to formal or professional mental health supports is concerning, Ms Robinson also noted that children and young people appreciate the informal support they receive from their peers. She noted that the Strategic Plan aims to help children and young people provide more peer-to-peer support to each other.²³

The NSW Strategic Plan for Children and Young People 2022-24

Finding 2

Annual reporting on the NSW Strategic Plan for Children and Young People 2022-2024 will be a valuable tool for tracking statewide progress in improving outcomes for children and young people in NSW.

- 1.41 Under section 15 of the ACYP Act, one of the functions of the Advocate is to prepare, in consultation with the Minister, a three-year strategic plan for children

¹⁸ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 1.

¹⁹ Ms Robinson, [Transcript of evidence](#), 24 June 2022, pp 10-11.

²⁰ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 3; Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-24](#), p 10.

²¹ Ms Robinson, [Transcript of evidence](#), 24 June 2022, pp 3, 11.

²² Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 1.

²³ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 3.

and young people in NSW. On 17 December 2021, the Advocate tabled the *NSW Strategic Plan for Children and Young People 2022-24* (the Strategic Plan) in the Legislative Assembly.

- 1.42 This latest Strategic Plan is the result of significant design and consultation work from the ACYP. The *Review of the NSW Strategic Plan for Children and Young People 2016-19* was published in the previous reporting period, and the Committee was pleased to see that the findings of this evaluation have been used to develop the new Strategic Plan.²⁴
- 1.43 In preparing the Strategic Plan, the ACYP consulted with a broad range of stakeholders across the government and non-government sectors, and with children and young people themselves. Through new consultations and analysis of previous ACYP consultation data, the Strategic Plan focused on six core themes or 'commitment areas'. For each commitment area, a number of indicators will be used to track progress made between 2022 and 2024.²⁵
- 1.44 The six commitment areas in the new Strategic Plan are:
- Hope for the future
 - Love, connection and safety
 - Health and wellbeing
 - A good standard of living
 - Environments for joy and fun
 - Respect and acceptance.
- 1.45 During the public hearing, Ms Robinson focused on the third theme – 'Health and wellbeing'. In addition to the mental health considerations outlined above, the Advocate described how the Strategic Plan focuses on the 'first 2,000 days' of a child's life. Key health and wellbeing goals include the need to reduce the number of infant and child deaths, and rates of childhood injury, while increasing the number of children having developmental checks between the ages of two and four.²⁶
- 1.46 The Committee has closely monitored the development of the Strategic Plan in its previous annual reviews. We consider the Strategic Plan to be a valuable tool in tracking whether various government initiatives are improving outcomes for children and young people across the state.

²⁴ Office of the Advocate for Children and Young People, [Review of the NSW Strategic Plan for Children and Young People – 2016-19](#), May 2021; Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), p 17.

²⁵ Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), pp 17-19. For example: [The NSW Strategic Plan for Children and Young People 2022-2024](#), p 34.

²⁶ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 3; Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), p 10.

- 1.47 We were pleased to see that the ACYP will publish an annual tracking report. The tracking report will measure changes in the Strategic Plan's indicators and any progress made in terms of its overarching commitments. This reporting format will allow government and non-government agencies to see any progress being made or areas for improvement, with more timely data.²⁷
- 1.48 We commend the Advocate for completing the new Strategic Plan, and we look forward to the publication of the first annual tracking report.

Consultations, research and reporting

Recommendation 2

That the Office of the Advocate for Children and Young People provides data on the number of children and young people it consults with each year in its annual reporting.

- 1.49 The Advocate's consultations with children and young people are central to fulfilling its functions under the ACYP Act. These consultations are often the basis for recommendations that the ACYP makes to government and non-government agencies about issues that affect children and young people.
- 1.50 The ACYP's Annual Report notes that, between 2015 and the reporting period, the ACYP has consulted with 38 300 children and young people.²⁸
- 1.51 In responses to supplementary questions, the ACYP described how consultation projects are conducted in different ways, including both quantitative and qualitative research methods. The ACYP Participation Team staff specialise in youth-centred consultation, and are qualified in trauma-informed approaches to youth engagement. In addition to this internal expertise, the ACYP commissioned SEC Newgate Research to conducting polling and surveys during the reporting period, and has also entered into partnerships with the University of Sydney and the University of Newcastle for upcoming projects.²⁹
- 1.52 The Committee notes that recent recommendations made by the Advocate have been considered by government agencies. For example, the *NSW child and young people unintentional injury prevention* report was received by the Minister for Families, Communities and Disability Services, and the Department of Communities and Justice has begun developing initiatives and programs to address some of the issues raised in the consultations.³⁰
- 1.53 The ACYP reported that they had consulted with 3805 children and young people during 2020-21. These consultations took the form of face-to-face consultations, online consultations, and polling. They also took place during events such as

²⁷ Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), pp 103.

²⁸ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 14.

²⁹ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 1.

³⁰ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 2.

training or competitions. The Committee commends the ACYP for the extensive consultation it has done with children and young people in recent years.³¹

- 1.54 However, we recommend that future annual reports include a figure on the number of children and young people that the ACYP consults with each year. Such data could include a breakdown of the method of consultation used, the number of children and young people consulted for each project, or the demographic characteristics of research participants (geographic region, for example). Providing annual consultation figures in this way would allow the Committee to compare the nature and scope of the ACYP's consultation work across reporting periods.

Key consultations during 2020-2021

Children and young people's experiences during the COVID-19 pandemic

- 1.55 The Committee was particularly interested in the Advocate's consultations and polling in relation to children and young people's experiences during the COVID-19 pandemic.
- 1.56 Youth consultation on the pandemic took the form of online polling and sentiment tracking, in addition to consultations through the Bang the Table platform. Survey research was conducted in partnership with Multicultural NSW and the Minister's Student Council, DOVES (Department of Student Voices in Education and Schools).³²
- 1.57 Ms Robinson outlined some of the themes arising from these consultations. The consultations revealed how children and young people dealt with the isolation and resulting loneliness experienced throughout the pandemic, but also found that children and young people were finding new ways to connect with each other.³³

Consultations with youth identifying as LGBTQIA+

- 1.58 We were also interested in the consultations that the Advocate has been undertaking with children and young people with diverse gender and sexual identities (LGBTQIA+).
- 1.59 Ms Robinson noted that the ACYP has spoken to approximately 160 school students who identify as LGBTQIA+. There are several areas in which young people with diverse gender and sexual identities do not feel 'as positive in their experience' when compared with peers. This includes their mental health and experiences of love, connection and safety. The Advocate also noted that school is often not a place of safety and connection for young people who identify as LGBTQIA+.³⁴
- 1.60 The development of the Strategic Plan also involved polling of children and young people, whose opinions were canvassed across quantitative research conducted

³¹ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 1.

³² Ms Robinson, [Transcript of evidence](#), 24 June 2022, pp 3-4.

³³ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 4.

³⁴ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 8.

by Newgate Research. Respondents who identified as LGBTQIA+ recorded lower ratings across all six commitment areas (e.g. 'Health and wellbeing').³⁵

- 1.61 These engagements with the LGTBQIA+ community will continue as the ACYP conducts more consultations and polling through schools, services, and other organisations in the sector.³⁶ The Committee will monitor the findings of these consultations with interest.

Youth Justice NSW exit interviews

- 1.62 The Advocate has also met with children and young people who have been in the youth justice system.
- 1.63 In late 2020, the ACYP conducted face-to-face exit interviews with children and young people leaving NSW Youth Justice facilities. These interviews aimed to capture the voices of children and young people exiting custody, and to make recommendations on how services can better support them.³⁷
- 1.64 Ms Robinson outlined what children and young people told her about their circumstances prior to incarceration. She described how disengagement with school, financial instability, homelessness, and experiences of domestic and family violence were common circumstances for children and young people before they enter the youth justice system.³⁸
- 1.65 There are several programs that are working well to support children and young people in Youth Justice facilities. These include the Pacifica leadership and mentoring program for young people from Aboriginal, Torres Strait Islander, Pacific Islander, Māori, and African backgrounds. Young people in custody also spoke positively about the ConFit mentoring program.³⁹
- 1.66 The Advocate also noted that more work still needs to be done to support young people exiting the youth justice system. In particular, better supports for re-integrating with the community are needed in order to reduce recidivism. This includes:

...making sure that we're connecting them into a community, that they've got stability when they leave, and that they've got employment. That's a lot of the things that they're thinking about, because they do want to think about what's next for them, and how they don't come back.⁴⁰

Out-of-home care consultations

- 1.67 The ACYP also consulted with children and young people with experience of the out-of-home care (OOHC) system. The Advocate's report on these consultations,

³⁵ Office of the Advocate for Children and Young People, [Answers to questions taken on notice](#), 22 July 2022, p 1. For example: Office of the Advocate for Children and Young People, [The NSW Strategic Plan for Children and Young People 2022-2024](#), p 56.

³⁶ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 8.

³⁷ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 17.

³⁸ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 5.

³⁹ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 5.

⁴⁰ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 5.

The Voices of Children and Young People in Out-of-Home Care, was published in August 2022.

- 1.68 The Advocate told the Committee that consultations involved 99 children and young people in care. They were asked about their experiences entering and exiting care, and their experiences throughout care. This included questions about their experiences of safety, identity, family and rights, and their involvement in decisions that affect them.⁴¹
- 1.69 Ms Robinson said that the key theme emerging from these interviews is that children and young people in the OOHC system want to be consulted more. One of the ACYP's recommendations is that children and young people are spoken to more consistently, so their experiences and circumstances are better understood, and that they are better informed themselves. This was particularly important for young people about to leave care:
- As you're exiting care, the plan starts to happen, but children and young people talked about wanting to know more, and being engaged more regularly when decisions are being made about them. The high-level advice that children and young people gave for government was, "Listen to children and young people. Be transparent and accountable."⁴²
- 1.70 The Committee acknowledges the important consultation work that the ACYP undertakes, and we look forward to hearing more about the impacts of the recommendations made in the ACYP's consultation reports.

ACYP initiatives

- 1.71 The ACYP conducts a variety of initiatives to inform and advise children and young people in NSW, and to improve the quality and safety of services provided to them. During the reporting period, these included:
- A series of Practical Life Skills videos, that provide advice on 'how to manage one's health, finances, employment and households'⁴³
 - NSW Children's Parliament, in partnership with the NSW YMCA⁴⁴
 - Health information videos that focused on factual information and advice relating to COVID-19⁴⁵
 - The Digital Lunchbreak platform, which provided school students with workshops and virtual excursions during the pandemic.⁴⁶
- 1.72 During the reporting period, the ACYP conducted training with youth councils across NSW and with the Regional Youth Council. An example of this was the facilitation training provided to the Camden Youth Council, where they learnt

⁴¹ Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 9.

⁴² Ms Robinson, [Transcript of evidence](#), 24 June 2022, p 9.

⁴³ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 47.

⁴⁴ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 41.

⁴⁵ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 72.

⁴⁶ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 32.

how to conduct respectful and effective consultations. Training was also provided to the NSW Youth Advisory Council.⁴⁷

- 1.73 The ACYP noted that their training and upskilling programs continue to operate within the requirements of their allocated funding. The Committee was pleased to hear that a portion of this funding is allocated to developing the skill-sets of adults and organisations that work with children and young people.⁴⁸
- 1.74 We were also pleased to hear that ongoing feedback on the ACYP's initiatives is embedded within the ACYP's consultation work. In answers to supplementary questions, the ACYP told us that the design of their programs and projects 'are directly informed by what children and young people tell us is important to them'. We also noted that feedback on the ACYP's performance is provided annually by members of the Youth Advisory Council.⁴⁹
- 1.75 The ACYP has also demonstrated its capacity to adapt to the pandemic by providing both face-to-face and online training.⁵⁰

The Our Local online platform

Recommendation 3

That the Office of the Advocate for Children and Young People consider evaluating the Our Local online platform and, if appropriate, developing a similar resource.

- 1.76 The ACYP's Annual Report noted that the Our Local online platform has effectively been discontinued. Our Local was launched in 2019 to provide information for children and young people about services, events, and activities they could access in their local communities. The Committee's 2020 annual review noted that children and young people were initially able to search 16 000 listings, with 60 per cent of listings being in regional areas.⁵¹
- 1.77 Due to 'resourcing constraints', the ACYP placed the Our Local platform into hibernation during the reporting period. The ACYP consulted with government to see if other agencies were able to host Our Local, but 'no other agency had capacity to accept hosting responsibilities.' The ACYP told the Committee:

Due to the resourcing requirements of Our Local, ACYP does not have plans to reinstate this or a similar resource at this time.⁵²

⁴⁷ Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 53; Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 2.

⁴⁸ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 2.

⁴⁹ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 3.

⁵⁰ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 4.

⁵¹ Committee on Children and Young People, [2020 review of the annual reports and other matters of the Office of the Advocate for Children and Young People](#), report 1/57, Parliament of New South Wales, p 3.

⁵² Office of the Advocate for Children and Young People, [Annual Report 2020-21](#), p 75; Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 4.

- 1.78 While the Committee acknowledges that the ACYP performs a broad range of functions within the funding available to it, the loss of this resource is not ideal.
- 1.79 We recommend that the ACYP consider conducting an evaluation of Our Local, such as by analysing data on how children and young people accessed and used this resource in the past. It may be feasible to reinstate Our Local at some point in the future, or to develop a similar resource with more sustainable resource requirements. Children and young people need advice and information that is relevant to their individual circumstances and the unique communities they live in. Our Local or a similar online database could provide them with an opportunity to access such information in a centralised platform that is promoted through the outreach capabilities of the ACYP.
- 1.80 More broadly, the Committee was pleased to hear that the Advocate has worked with the Department of Communities and Justice to conduct 'much needed IT upgrades' for the ACYP office.⁵³
- 1.81 We welcome further developments in the ACYP's information and communication technology (ICT) expertise and strategy, and will continue to monitor the development of the ACYP's ICT capabilities in future annual reviews.

Youth Advisory Council

- 1.82 The ACYP Act establishes the NSW Youth Advisory Council (YAC), which is a representative body of 12 young people, aged 12 to 24 years of age.
- 1.83 The YAC focuses on consulting with young people, conducting forums, and advising the Minister and Advocate on policies, programs and issues that affect young people. Part 4 of the ACYP Act outlines the functions of the YAC, and states that the Advocate has a responsibility to work co-operatively with the YAC.
- 1.84 The Committee was pleased to hear that the YAC members continue to have a strong collaborative relationship with the Advocate and the ACYP. Ms Lua Pellegrini, Chairperson, YAC, told the Committee that YAC members have the opportunity to be involved in most of the work that the ACYP does, such as participating in planning for Youth Week events, or being consulted on the drafting of the Strategic Plan.⁵⁴
- 1.85 Ms Julie Charlton, 2020/21 Chairperson, YAC, also described how working with the Advocate has been empowering and has built her personal skills in advocating on behalf of vulnerable children and young people. She told the Committee:

Working with Zoë [Robinson] and her team at ACYP has given me the ability to feel confident and comfortable to advocate for my communities—to continue the work that I have learned in my time in the Office, and continue to use it in my advocacy efforts as I move to other organisations.⁵⁵

⁵³ Office of the Advocate for Children and Young People, [Answers to supplementary questions](#), 22 July 2022, p 4.

⁵⁴ Ms Lua Pellegrini, Chairperson, Youth Advisory Council, [Transcript of evidence](#), 24 June 2022, p 17.

⁵⁵ Ms Julie Charlton, 2020/21 Chairperson, Youth Advisory Council, [Transcript of evidence](#), 24 June 2022, pp 12-13.

- 1.86 In practical terms, the YAC described the range of supports provided to them by the ACYP. Induction and training is provided to YAC members, and covers topics such as media engagement, participatory practice, and cultural awareness. The YAC also note the external training that has been organised for them by the ACYP, such as courses provided by Carers NSW and Vision Australia.⁵⁶

The Youth Advisory Council's consultation work

- 1.87 The YAC representatives told the Committee about the consultation work they have undertaken with the NSW Education Standards Authority (NESA) and the NSW Department of Education.
- 1.88 Ms Pellegrini noted that NESA representatives attend most YAC meetings, and discussions of curriculum reform are a standing agenda item. Ms Charlton noted that this ongoing engagement with NESA began with consultations on whether to include Aboriginal studies as part of the curriculum, and sessions between NESA and the YAC now cover a diverse range of areas for curriculum reform.⁵⁷
- 1.89 The Committee also heard about the YAC's work in relation to education on sexual consent. The YAC drew the Committee's attention to polling conducted by the ACYP in 2021, which found that more than 'half of young people in NSW said they felt their education about consent was insufficient, or they were unsure whether they had learnt enough'.⁵⁸
- 1.90 The YAC argued that, while progress has been made in educating young people on sexual consent, more could be done:
- It is important that there is more focus on consent education, and that it is done in a culturally sensitive way that is more relatable to real-life situations. It is also important to start talking about respectful relationships and how to implement healthy boundaries from a young age.⁵⁹
- 1.91 Ms Charlton told the Committee that the YAC's consultations on sexual consent reform were where the YAC has had the greatest impact as an organisation. The YAC provided feedback on the Department of Education's 'Statement of Intent', and has also consulted with the Department of Communities and Justice on this topic. The YAC reported that there is now 'more attention and awareness around the issue of consent, including a shift in language and information around recent legal changes in NSW'.⁶⁰
- 1.92 The Committee commends the YAC for their contributions to these reforms. We were also pleased to hear that the ACYP has joined the Office of Regional Youth in funding a 'regional consent lab roadshow' to Bathurst, Orange, and Dubbo.⁶¹

⁵⁶ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 1.

⁵⁷ Ms Pellegrini, [Transcript of evidence](#), p 17; Ms Charlton, [Transcript of evidence](#), 24 June 2022, p 16.

⁵⁸ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 3.

⁵⁹ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 2.

⁶⁰ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, pp 2-3; Ms Charlton, [Transcript of evidence](#), 24 June 2022, p 16.

⁶¹ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 3.

The Youth Advisory Council's views on support for young carers

- 1.93 The Committee was also interested in the YAC's engagement with young carers. The YAC provided feedback to the Department of Education on information that could be provided in schools, to inform young carers about the supports available to them and to '[bust] common misconceptions' about young carers.⁶²
- 1.94 We asked the YAC whether they felt enough support was available for young carers in NSW. The YAC reported that there are a number of programs and services that can support young carers, but there are also areas where support could improve.⁶³
- 1.95 The YAC described the support available through the Carers NSW Young Carer Program, the Carers Gateway (Commonwealth) and the Young Carers Bursary Program (Carers Australia). While the Bursary Program provides financial support for young carers' educational needs, the YAC noted that young carers often have difficulty in claiming some supports because they are not primary carers – even though they may be providing substantial amounts of care for a family member or friend.⁶⁴
- 1.96 The YAC also told us that some programs are no longer available, particularly those that provide opportunities for young carers to connect and form networks with each other. In answers to supplementary questions, the YAC told us that:
- There is currently an opportunity for the NSW Government to invest in regular, meaningful networking opportunities for young carers that supplement the peer support available through Carer Gateway, enabling young carers to connect, share ideas and build their skills and confidence.⁶⁵
- 1.97 The Committee was pleased to see that there continues to be strong engagement and collaboration between the YAC and the ACYP. Both organisations are making effective and timely contributions to ensure that the voices of young people are being considered by government decision-makers, in relation to a broad range of issues that affect children and young people in NSW.

⁶² Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 4.

⁶³ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 4.

⁶⁴ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 4.

⁶⁵ Youth Advisory Council, [Answers to supplementary questions](#), 22 July 2022, p 4.

Chapter Two – Office of the Children's Guardian

Introduction

Finding 3

The Office of the Children's Guardian is fulfilling its functions, as specified in the Child Protection (Working with Children) Act 2012 and the Children's Guardian Act 2019.

- 2.1 Under section 37 of the *Advocate for Children and Young People Act 2014*, the Committee on Children and Young People is responsible for monitoring and reviewing the exercise of specific functions of the Office of the Children's Guardian (the OCG).
- 2.2 These functions include those specified by:
- i) The *Child Protection (Working with Children) Act 2012*, including the administration of the Working With Children Check
 - ii) The *Children's Guardian Act 2019*, importantly, the operation of the Reportable Conduct Scheme
- 2.3 In November 2021, amendments to the *Children's Guardian Act* gave the OCG new functions related to the implementation and enforcement of the Child Safe Scheme. The Committee was given responsibility for monitoring these functions.
- 2.4 The Committee held a hearing on 24 June 2022 in relation to its review of the Annual Report of the OCG. The Children's Guardian, Ms Janet Schorer, appeared before the Committee, and was joined by Ms Sharminie Niles, General Counsel, and Mr Steve Gholab, Director, Working With Children Check.
- 2.5 The Committee found that the Office of the Children's Guardian is fulfilling its functions as required under the legislation.
- 2.6 In particular, we note that the OCG continues to monitor and improve the functioning of the Working With Children Check and Reportable Conduct Scheme. We also acknowledge that the responsibilities and workload of the OCG continue to expand, and we recommend that the Treasurer increase the OCG's funding, as appropriate, as the Child Safe Scheme is implemented (at paragraph 2.62 below).
- 2.7 This chapter summarises the Committee's review of the OCG's 2020-2021 annual report, as well as other matters related to the OCG's work. Beginning with an overview of the administration of the Working with Children Check, the chapter then examines the operation of the Reportable Conduct Scheme and the Child Safe Scheme, including key amendments introduced in the reporting period.

Working with Children Check

- 2.8 The administration and management of the Working with Children Check (the WWCC) is a key function of the Office of the Children's Guardian (OCG). The WWCC in NSW has been administered by the OCG since 2013, and has been recognised as one of the most comprehensive schemes in Australia.⁶⁶
- 2.9 A WWCC is required for anyone in NSW that is engaged in paid or voluntary child-related work. 'Child related work' is defined under section 6 of the *Child Protection (Working with Children) Act 2012* (the WWCC Act) and the *Child Protection (Working with Children) Regulation 2013* (the WWCC Regulation). Before a WWCC is issued, applicants must clear a national criminal history check, as well as a review of any reported workplace misconduct incidents. Once issued, the WWCC is valid for five years. Holders can apply for a renewal as their WWCC reaches its expiry date.⁶⁷
- 2.10 In 2020-2021, the OCG processed 400 855 WWCC applications, of which 179 837 were new applications and 221 018 were renewal applications. 83 per cent of applications were automatically cleared within five days. This was a slight decrease on the previous reporting period (85 per cent).⁶⁸
- 2.11 Applications that return records during the criminal history and workplace checks are reviewed, before a decision is made to grant or deny a WWCC clearance. This process is guided by schedules 1 and 2 of the WWCC Act, which outline the criteria for records that trigger risk assessment (schedule 1) or those that automatically disqualify an applicant (schedule 2).⁶⁹
- 2.12 46 934 applications made during the reporting period required review because screening processes returned police or workplace misconduct records. Of these, 42 992 applications were granted clearance after the review determined they had no records relevant to the safety of children. 434 applications were automatically disqualified because the applicant had schedule 2 records.⁷⁰
- 2.13 3508 applications returned schedule 1 records and were referred for risk assessment. Following assessment, 780 applicants were cleared and granted a WWCC; 407 applications were disqualified and the applicants barred; and the remaining 2331 applications were closed.⁷¹ As in previous years, a high proportion of finalised risk assessments ultimately resulted in the application

⁶⁶ Office of the Children's Guardian, [Annual report 2019-20](#), p 24.

⁶⁷ Office of the Children's Guardian, [Frequently asked questions about the WWCC](#), last updated 11 August 2022, accessed online 22 August 2022; Office of the Children's Guardian, [The NSW Working With Children Check](#), accessed online 22 August 2022; Office of the Children's Guardian, [How to renew your WWCC](#), last updated 14 April 2022, accessed online 12 October 2022.

⁶⁸ Office of the Children's Guardian, [Annual Report 2021](#), p 24; Office of the Children's Guardian, [Annual Report 2019-20](#), p 26.

⁶⁹ Office of the Children's Guardian, [Frequently asked questions about the WWCC](#), last updated 11 August 2022, accessed online 22 August 2022.

⁷⁰ Office of the Children's Guardian, [Annual Report 2021](#), p 24.

⁷¹ Office of the Children's Guardian, [Annual Report 2021](#), pp 24, 26.

being closed – approximately 64 per cent (compared to 61 per cent in 2018-19, and 57 per cent in 2019-20).⁷²

- 2.14 The OCG noted that they are working to improve applicants' engagement with the risk assessment process. This has included simplifying written and verbal correspondence mechanisms, and reducing identified barriers to engagement.⁷³ The Committee was pleased to note the OCG's refinements to these communication processes.

Pandemic arrangements

- 2.15 Section 54 of the WWCC Act was amended to grant the OCG temporary powers during the peak of COVID-19 restrictions in 2020-2021.⁷⁴ This was primarily aimed at reducing the number of people who were required to physically attend Service NSW centres to process a WWCC renewal. Over 100 000 WWCC extensions were granted.⁷⁵
- 2.16 Ms Janet Schorer, Children's Guardian, told us that this was considered a 'low risk' emergency measure, because the OCG has continuous monitoring systems in place for all WWCC holders.⁷⁶ We commend the OCG's work in administering and monitoring the WWCC scheme in light of the operational challenges presented by the pandemic. These provisions were officially repealed as of 26 March 2022.⁷⁷

WWCC compliance and work sector audits

- 2.17 Alongside the administration of WWCC clearances, the OCG also undertakes compliance audits as part of the WWCC scheme. This includes targeted sector audits.
- 2.18 Both WWCC holders (employees and volunteers) and their employers have responsibilities under the WWCC Act and the WWCC Regulation to ensure they remain compliant. All WWCC holders, including applicants waiting for clearance, are part of the OCG's continuous monitoring system, which works to ensure current compliance.⁷⁸
- 2.19 Systems for monitoring employer compliance are both reactive and proactive. Reactive monitoring is carried out based on notifications from the WWCC system, and there are also internal and external referral processes.⁷⁹ Complaints from

⁷² Office of the Children's Guardian, [Annual Report 2021](#), p 25.

⁷³ Office of the Children's Guardian, [Annual Report 2021](#), p 25; Committee on Children and Young People, Report 3/57 - [2021 Review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian](#), October 2021, p 4.

⁷⁴ Office of the Children's Guardian, [Annual Report 2019-20](#), p 24.

⁷⁵ Office of the Children's Guardian, [Annual Report 2021](#), pp 26-27; Committee on Children and Young People, 2021 Review, p 6.

⁷⁶ Ms Janet Schorer, NSW Children's Guardian, Office of the Children's Guardian, [Transcript of evidence](#), Friday 24 June 2022, p 21.

⁷⁷ [Child Protection \(Working with Children\) Regulation 2013](#) (NSW), section 19A.

⁷⁸ Office of the Children's Guardian, [Annual Report 2021](#), p 27; Mr Steve Gholab, Director, Working with Children Check, Office of the Children's Guardian, [Transcript of evidence](#), 24 June 2022, p 20; Office of the Children's Guardian, [The NSW Working With Children Check](#), February 2022, accessed online 24 August 2022, p 1.

⁷⁹ Office of the Children's Guardian, [Annual Report 2021](#), p 27.

organisations and members of the public are also received through the 'Report a Concern' portal on the OCG's website.⁸⁰ Proactive monitoring works to target organisations that have been deemed higher risk. This determination is made based on data from the WWCC system, the results of previous audit work, and any complaints received.⁸¹

- 2.20 We were interested in how the OCG carried out targeted work sector audits during the reporting period. We heard that, during 2020-21, they audited 243 employers who were operating in sectors with low WWCC verification rates. This included religious services, education providers (including tuition), and specific sporting organisations (water polo, dance, and rugby league).⁸²
- 2.21 Just over half of the employers contacted (123) were no longer operating, or were no longer providing services to children. Audits of the remaining 120 organisations found 90 to be in breach of WWCC legislation, approximately 75 per cent. There were a total of 757 individual breaches identified.⁸³
- 2.22 We note that there was a much lower proportion of breaches found in the last reporting period (139 organisations audited, with 56 in breach – approximately 40 per cent).⁸⁴ However, this may be a result of the targeted auditing work of the OCG, rather than an increase in noncompliance. We will continue to monitor the trend in this area.

Amendments to the WWCC Act

- 2.23 The WWCC Act was recently amended by the passage of the Child Protection (Working with Children) Amendment Bill 2022. This bill made three significant changes to the operation of the WWCC: new linkages with the National Reference System; the inclusion of overseas offences in criminal history checks; and additions to the list of disqualifying offences.⁸⁵
- 2.24 Prior to this amendment, the WWCC scheme was 'connected' with NSW Police to enable a continuous checking mechanism for the five-year life of a WWCC, but this monitoring only covered offences in NSW.⁸⁶ A national criminal history check was done through the Australian Criminal Intelligence Commission (ACIC) when new and renewal WWCC applications were made. This limited capacity for inter-jurisdictional monitoring presented a risk of 'forum shopping', where people who were barred from working with children in one state or territory could potentially work with children in another jurisdiction.⁸⁷

⁸⁰ Office of the Children's Guardian, [Compliance and Enforcement Policy](#), January 2022, accessed 24 August 2022, p 6.

⁸¹ Ms Janet Schorer, [Transcript of evidence](#), Friday 24 June 2022, pp 25-26.

⁸² Office of the Children's Guardian, [Annual Report 2021](#), p 28.

⁸³ Office of the Children's Guardian, [Annual Report 2021](#), p 28.

⁸⁴ Office of the Children's Guardian, [Annual Report 2021](#), p 28.

⁸⁵ Ms Schorer, [Transcript of evidence](#), Friday 24 June 2022, p 19; Ms Sharminie Niles, General Counsel, Office of the Children's Guardian, [Transcript of evidence](#), Friday 24 June 2022, p 19.

⁸⁶ Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 20.

⁸⁷ Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 20; Royal Commission into Institutional Responses to Child Sexual Abuse, [Final Report: Preface and executive summary](#), 2015, accessed 30 August 2022, p 96.

- 2.25 The amended legislation now also provides a mechanism for the NSW WWCC to 'connect in' with the National Reference System, part of ACIC's National Police Checking Service, as well as NSW Police databases.⁸⁸ This enables more frequent national monitoring, and better information sharing across Australian jurisdictions.⁸⁹ Mr Steve Gholab, Director, Working with Children Check, emphasised to the Committee that this amendment was important for strengthening mechanisms that protect child safety, both in NSW and nationally.⁹⁰
- 2.26 As well as increased scope for national monitoring, the WWCC Act now requires applicants and WWCC holders to disclose schedule 1 and 2 offences from international jurisdictions.⁹¹ Additional offences were also included in schedules 1 and 2 of the WWCC Act, following recent amendments to the *Crimes Act 1900* (NSW).⁹²
- 2.27 The OCG told the Committee that it supports these amendments, and we are pleased to hear that the integrity of the WWCC scheme in NSW is continually being strengthened. We recognise the importance of WWCCs for the protection of children in NSW, and we commend the OCG for their ongoing work to maintain and improve the scheme.

Supporting and engaging with Aboriginal communities

Appointment of Deputy Guardian

- 2.28 The Committee has been interested in the OCG's ongoing work to improve engagement with Aboriginal people and organisations.⁹³ We were pleased to hear of the appointment of Mr Richard Weston as Deputy Children's Guardian for Aboriginal Children and Young People in January 2021.⁹⁴
- 2.29 The Guardian told us that Mr Weston's role will improve the OCG's 'cultural competence', and that Mr Weston aims to improve OCG practices related to care planning for Aboriginal children and young people. In particular, this includes embedding the placement principle, outlined in the *Children and Young Persons (Care and Protection) Act 1998* (NSW).⁹⁵
- 2.30 We acknowledge that this is an important step forward in improving engagement and support for Aboriginal communities across NSW, and we will be interested to

⁸⁸ [Child Protection \(Working with Children\) Amendment Bill 2022](#) (NSW), [10]; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 19; Australian Criminal Intelligence Commission, [National Police Checking Service: How the Service Works](#), 2021, accessed 31 August 2022.

⁸⁹ Office of the Children's Guardian, [Annual Report 2021](#), pp 14-15; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 19.

⁹⁰ Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 20.

⁹¹ [Child Protection \(Working with Children\) Amendment Bill 2022](#) (NSW), [10].

⁹² Specifically section 547E - Bestiality or animal crush material; Ms Niles, [Transcript of evidence](#), 24 June 2022, p 19.

⁹³ Committee on Children and Young People, [2021 Review](#), pp 7-8

⁹⁴ Ms Schorer, [Transcript of evidence](#), Friday 24 June 2022, p 18

⁹⁵ [Children and Young Persons \(Care and Protection\) Act 1998](#) (NSW) s13; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 20.

follow the development and impact of the Deputy Guardian's role over future reporting periods.

- 2.31 In particular, during the reporting period, Mr Weston has led the OCG's responses to recommendations made as part of the *Independent Review of Aboriginal Children and Young People in Out-of-home care in New South Wales* (the *Family is Culture* report).⁹⁶ This work was completed in early 2022 and outlined the OCG's commitment to addressing the report's recommendations and findings.⁹⁷

Supporting Aboriginal Working with Children Check applicants

- 2.32 The Committee has also been following the OCG's work to improve engagement with Aboriginal WWCC applicants. The Guardian has previously noted that Aboriginal communities may be at greater risk of non-engagement with the WWCC application process due to limited awareness about the scheme.⁹⁸
- 2.33 We heard that the OCG has been working to build relationships with Aboriginal communities across NSW through a program of community engagement. As a result, they have worked to 'refine' WWCC processes with the aim of better engagement and support for Aboriginal WWCC applicants. For example, the OCG has begun using a 'soft entry' approach, where applicants are contacted by a dedicated staff member, rather than by cold call or letter.⁹⁹
- 2.34 The Guardian stated that, as a result of the over-policing of First Nations communities, many Aboriginal people have a disproportionate amount of contact with the criminal justice system. This is, in turn, represented in their criminal and other records. Applicants also have not had the opportunity to tell their own story and contextualise any criminal records during the WWCC process. Ms Schorer acknowledged that they had learnt Aboriginal applicants can find the application process 'pretty terrifying'.¹⁰⁰
- 2.35 In response to these findings, the OCG told us that they have been working to engage with Aboriginal communities in a more culturally appropriate way. Ms Schorer and Mr Gholab told us that acknowledging the different experiences of Aboriginal people and promoting opportunities for meaningful conversation during the application process has improved Aboriginal engagement with the WWCC.¹⁰¹
- 2.36 We were glad to hear this, and encourage the OCG to continue this engagement work with Aboriginal communities. In particular, we were pleased to hear that this work has had a positive impact, and that the engagement of First Nations

⁹⁶ Ms Schorer, [Transcript of evidence](#), Friday 24 June 2022, p 18; Family is Culture, [Independent Review of Aboriginal Children and Young People in OOHC in NSW](#), November 2019, accessed 1 September 2022.

⁹⁷ Office of the Children's Guardian, [Special Report under section 139\(2\) of the Children's Guardian Act 2019: Family is Culture Review](#), March 2022, published online 8 April 2022, accessed 1 September 2022.

⁹⁸ Office of the Children's Guardian, [Annual Report 2019-20](#), p 28.

⁹⁹ Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 24.

¹⁰⁰ Ms Schorer, [Transcript of evidence](#), 24 June 2022, pp 23-24.

¹⁰¹ Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 24; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 24.

people in their community has resulted in a better ability to deliver services for First Nations children and young people within community.¹⁰²

- 2.37 Alongside the WWCC process improvements discussed above, the Committee also asked the OCG about general cultural awareness training for its staff. This is particularly important, given the high representation of Aboriginal communities in areas overseen by the OCG, such as out-of-home care providers.
- 2.38 The Guardian told us that all staff have undertaken cultural awareness training, and noted that the OCG also has a First Nations policy statement. Additionally, there has been an increase in the number of Aboriginal staff employed at the OCG, including Mr Weston's appointment as Deputy Guardian.¹⁰³

Reportable Conduct Scheme

- 2.39 The Reportable Conduct Scheme (RCS) has been managed by the OCG since 2020. It operates under the *Children's Guardian Act 2019* (the CG Act). Its primary goal is to protect children in NSW by regulating the services provided to them and promoting and guiding child safe practice.¹⁰⁴
- 2.40 During the reporting period, an amendment to the CG Act was passed (discussed more in the section on the Child Safe Scheme below). This change altered the scope of the RCS, increasing demand on the scheme.
- 2.41 The Guardian told us that her Office has received additional funding to employ more staff for the RCS in recognition of these impacts.¹⁰⁵ The Committee was pleased to hear this. We discussed funding for additional or new functions in our previous annual review, and have similarly recommended in this report that the OCG's funding is monitored and reviewed as its responsibilities expand in the future (see paragraph 2.62).¹⁰⁶
- 2.42 In our last annual review, we noted that a significant change was set to be introduced in 2020, with the inclusion of the faith sector in the RCS.¹⁰⁷ This forms an important part of ongoing work to implement recommendations from the Royal Commission into Institutional Responses to Child Sexual Abuse.
- 2.43 Ms Schorer told us that discussions with leaders of different faith groups has indicated that they are 'very willing' to work with the OCG on implementing and embedding the RCS. She said that there is 'much more' to do, but that the OCG is working towards 'continuous improvement'.¹⁰⁸ We commend the OCG on their ongoing diligence in administering the Reportable Conduct Scheme.

¹⁰² Mr Gholab, [Transcript of evidence](#), 24 June 2022, p 24.

¹⁰³ Office of the Children's Guardian, [Aboriginal Applicants and the Working With Children Check: Policy Statement](#), January 2022, accessed online 1 September 2022; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 25.

¹⁰⁴ [Children's Guardian Act 2019](#) (NSW), pt 4.

¹⁰⁵ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 23.

¹⁰⁶ Committee on Children and Young People, [2021 Review](#), pp 8-9.

¹⁰⁷ Committee on Children and Young People, [2021 Review](#), pp 9-10.

¹⁰⁸ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 23.

The gig economy and third-party employers

Recommendation 4

That in light of evidence provided to the inquiry and the ongoing growth of children and young people working in the “gig economy”, the Committee write to the Office of the Children’s Guardian and request the Children’s Guardian to review the matter in detail and report back on findings to the 2023 public hearing.

- 2.44 The OCG has been proactive in monitoring emerging employment areas, such as in the 'gig economy' and specific industries that employ young people. The Committee was interested in the growth of the 'gig economy' and its intersection with children and young people in NSW, and the implications this may have for the OCG's administration of the Reportable Conduct Scheme (RCS) and Working with Children Check (WWCC).

WWCCs and the RCS in the gig economy

- 2.45 The nature of employment in the gig economy may create challenges for the administration of the RCS and WWCC. In a gig economy, individuals provide paid services via a digital platform or other marketplace. This may involve organisations that work with or employ children and young people. People working in this sector may be classified as independent contractors or sole traders, but they still have WWCC obligations.¹⁰⁹
- 2.46 The way that the gig economy operates may have implications for the OCG's administration of the WWCC and RCS. In our previous annual review we discussed the OCG's role in regulating WWCCs for independent contractors who work with children, such as tutors and babysitters.¹¹⁰
- 2.47 In this year's review, we heard that employers and employees in the gig economy may not be aware of their WWCC obligations.¹¹¹ Additionally, the Guardian noted that there is an open question about what role the OCG has in overseeing independent contractors and sole traders, because schemes such as the WWCC and the RCS are predominantly designed for an employer-employee model.¹¹²
- 2.48 The Committee notes that the gig economy is an emerging sector of employment and there is more work to be done in regulating this sector. We will continue to consider issues related to the administration of child protection legislation in the gig economy as the sector develops.

Employment of young people in the gig economy

- 2.49 During this review, we asked the OCG about the employment of children and young people in the gig economy. In NSW, children under 16 can only be

¹⁰⁹ Fair Work Ombudsman, [Gig economy](#), accessed 6 September 2022; [Answers to questions on notice](#), Office of the Children's Guardian, 12 July 2022, p 1.

¹¹⁰ Committee on Children and Young People, [2021 Review](#), pp 5-6.

¹¹¹ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 26.

¹¹² Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 23.

employed in specific industries – entertainment and still photography (modelling); and, if older than 14 years and 9 months, door-to-door sales.¹¹³

- 2.50 The OCG stated that they work to protect the safety, welfare, and wellbeing of children and young people who are employed in acting and modelling in NSW.¹¹⁴ Provisions for employing children in these industries are set out in part 6 of the *Children's Guardian Act 2019*, and in the *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2015*, which are administered by the OCG.¹¹⁵
- 2.51 This includes a requirement for employers to hold an employer's authority.¹¹⁶ Authorities are only issued for specific industries in NSW, mainly entertainment and modelling work.¹¹⁷ Children are usually employed as independent contractors on a short-term basis for a specific project.¹¹⁸
- 2.52 Children and young people may also be engaged by employers through the use of third-party services such as recruitment agencies, referred to as 'labour hire agencies'. The OCG told us that agencies who engage children through a labour hire agency have the same legislative and regulatory responsibilities and obligations as if they had engaged the child directly.¹¹⁹
- 2.53 In answers to questions taken on notice, the OCG also advised that notification rates for third-party services are low. The OCG has advised that they are considering this issue as part of the statutory review of the *Children's Guardian Act 2019*, which commenced in July 2022.¹²⁰

Residential Care Workers Register

- 2.54 During the reporting period, the Residential Care Workers Register (the Register) was finalised. We heard that the OCG has been working with agencies in the residential care sector to design the Register and its accompanying systems.¹²¹ The Register commenced on 18 July 2022.
- 2.55 Residential care workers registers were discussed extensively by the 2015 Royal Commission. The Commission noted that out-of-home care (OOHC), especially residential care, faces a number of 'chronic' staffing issues. These include high turnover of staff; deficiencies in staff experience, skills, training, supervision and support; and frequent use of casual staff. They also noted that these issues raise the risk that people who are a risk to children can move 'undetected' between

¹¹³ [Children and Young Persons \(Care and Protection\) \(Child Employment\) Regulation 2015](#) (NSW), sch 1, pt 4, s35.

¹¹⁴ [Answers to questions on notice](#), Office of the Children's Guardian, 12 July 2022, p 1.

¹¹⁵ Children's Guardian Act 2019 (NSW), pt 6; [Children and Young Persons \(Care and Protection\) \(Child Employment\) Regulation 2015](#) (NSW).

¹¹⁶ [Children's Guardian Act 2019](#) (NSW), pt 6, div 3.

¹¹⁷ Office of the Children's Guardian, [Annual Report 2021](#), p 51; Office of the Children's Guardian, [Authority to employ children](#), 15 February 2022, accessed online 8 September 2022.

¹¹⁸ [Answers to questions on notice](#), Office of the Children's Guardian, 12 July 2022, p 1.

¹¹⁹ [Answers to questions on notice](#), Office of the Children's Guardian, 12 July 2022, p 1.

¹²⁰ NSW Government, [Children's Guardian Act statutory review discussion paper](#), July 2022, accessed online 8 September 2022, pp 15-16; [Answers to questions on notice](#), Office of the Children's Guardian, 12 July 2022, p 1.

¹²¹ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 26.

workplaces. A carers register provides an important transparency mechanism, and works to ensure accurate and useful sharing of information.¹²²

- 2.56 The Register is provided for by section 85 of the *Children's Guardian Act 2019*. The details of the Register and how it operates are set out in the *Children's Guardian Regulation 2022* (the Regulation). The Regulation applies to residential care providers, which are agencies who provide statutory or supported out-of-home care in a residential setting.¹²³
- 2.57 Residential care providers are now required to list their workers on the Register.¹²⁴ This includes applicants who have reached an 'advanced stage' in a recruitment process, which is defined as a stage where referee checks are being conducted.¹²⁵ There are also provisions for updating the Register, which includes organisations recording reportable allegations.¹²⁶
- 2.58 The Guardian noted that agencies in this sector use a lot of temporary contract staff, which could mean that the Register creates a significant extra workload. In order to address this, the Regulation includes provisions (such as emergency authorisations) which mitigate potentially unnecessary burdens on 'already pretty busy people', but still uphold the purpose of the Register.¹²⁷
- 2.59 The Guardian told us that these provisions were included to 'give some leeway' for instances where staff may be required at very short notice. The Committee is satisfied that these arrangements are necessary in such circumstances, and we note that appropriate safeguards are in place – such as the need for care providers to inform the OCG within 72 hours of making an emergency authorisation.¹²⁸
- 2.60 We were concerned that poor information-sharing processes could impact the functioning of the Register. Ms Schorer advised us that, per section 8 of the Regulation, checking the Register is now a legal requirement for residential care providers. She explained that this was done in order to promote and embed the use of the Register across the sector.¹²⁹
- 2.61 The Committee was pleased to hear this, and will monitor the functioning of the Register and its efficacy during future reporting periods.

¹²² Royal Commission into Institutional Responses to Child Sexual Abuse, [Final Report: Volume 8, Recordkeeping and information sharing](#), 2015, pp 337-338; Royal Commission into Institutional Responses to Child Sexual Abuse, [Final Report: Volume 12, Contemporary out-of-home care](#), 2015, pp 276-277.

¹²³ [Children's Guardian Regulation 2022](#) (NSW), pt 2, div 2.

¹²⁴ [Children's Guardian Regulation 2022](#) (NSW), s10.

¹²⁵ [Children's Guardian Act 2019](#) (NSW), s85 (1C); [Children's Guardian Regulation 2022](#) (NSW), s14A.

¹²⁶ [Children's Guardian Regulation 2022](#) (NSW), div 2, ss11-14.

¹²⁷ [Children's Guardian Regulation 2022](#) (NSW), s6; Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 26.

¹²⁸ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 26; [Children's Guardian Regulation 2022](#) (NSW), s6

¹²⁹ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 27.

The Child Safe Scheme

Recommendation 5

That the Treasurer and relevant Minister monitor the needs of the Office of the Children's Guardian as its work and responsibilities expand under the Child Safe Scheme, and increase funding as appropriate.

- 2.62 During this reporting period, the Children's Guardian Amendment (Child Safe Scheme) Bill 2021 was passed. This bill amended the *Children's Guardian Act 2019* and conferred additional functions on the OCG in order to 'embed the Child Safe Standards as the primary framework guiding child safe practice' in NSW organisations'.¹³⁰
- 2.63 Section 8AC of the *Children's Guardian Act* now confers additional oversight responsibilities for the Committee related to the Child Safe Standards.¹³¹
- 2.64 The amended *Children's Guardian Act 2019* commenced in February 2022, and the Committee will begin reporting on its new functions as part of our next review. As we discussed the Child Safe Standards (the CSS) in detail as part of our previous annual review, the commentary below focuses on implementation considerations and recent legislative changes to support the Scheme.¹³²

Funding for implementing the CSS

- 2.65 The Committee has been particularly interested in the OCG's funding over the past few reporting periods. We were pleased to hear from the Guardian that the OCG has been given some additional funding for the administration of the WWCC and the RCS.¹³³
- 2.66 The Guardian told us that the OCG has not yet determined exactly 'how big' their role in monitoring compliance and conducting audits as part of the CSS will be. She said that the OCG is 'starting off small', so they can get a better idea of what will be involved in enforcing the Child Safe Scheme.¹³⁴
- 2.67 However, we consider that the expansion of the OCG's role and functions with the introduction of the Child Safe Scheme may require additional funding, to allow the OCG to meet all its statutory responsibilities.
- 2.68 For this reason, the Committee recommends that the Treasurer and relevant Minister monitor the OCG's resource requirements as the CSS becomes a greater part of their work, and that additional funding is provided as necessary. This will ensure that the OCG is able to continue to fulfill its functions to protect children and young people across NSW.

¹³⁰ [Children's Guardian Amendment \(Child Safe Scheme\) Bill 2021](#), sch 1[1].

¹³¹ [Children's Guardian Amendment \(Child Safe Scheme\) Bill 2021](#), sch 1, s8AC (p 4); Committee on Children and Young People, [2021 Review](#), p 11, recommendation 2.

¹³² Committee on Children and Young People, [2021 Review](#), pp 11-13.

¹³³ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 23.

¹³⁴ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 23.

Application of the CSS to out-of-home care

- 2.69 The amendments contained in the Children's Guardian Amendment (Child Safe Scheme) Bill 2021 also worked to apply the Child Safe Standards to the out-of-home care (OOHC) sector. These amendments sought to provide greater consistency in the regulation of different types of OOHC, including clarifications for specialised substitute residential care provided to children with disabilities. The Guardian stated that this move would work to acknowledge the 'additional vulnerability' of these children.¹³⁵
- 2.70 The Guardian told us that OOHC agencies weren't included in the 2021 amendments. The reasoning behind this was that OOHC agencies had been operating in line with prescribed standards for over 20 years; since 2015 these have been the 23 *NSW Child Safe Standards for Permanent Care*.¹³⁶
- 2.71 There are three categories of out-of-home care:
- Statutory OOHC places a child in care for a period of more than 14 days, and is the result of a care order of the Children's Court, or because the child or young person is a protected person (as defined in S135A(3)).¹³⁷
 - Supported OOHC is out-of-home care for a child that results because the Secretary of the Department of Communities and Justice has formed the opinion that they are in need of care and protection. It's arranged, provided, or otherwise supported by the Secretary.¹³⁸
 - Specialised substitute residential care (SSRC) is where children and young people are voluntarily placed into care by their parents, predominantly respite care for children and young people with disabilities.¹³⁹ Before 1 September 2022, SSRC was known as 'voluntary OOHC'.¹⁴⁰ Agencies providing SSRC are monitored and registered by the OCG's registration scheme.¹⁴¹
- 2.72 The OCG acknowledged that all OOHC agencies operate with different levels of risk and obligation for the children and young people in their care. They considered, however, that it "makes sense to have agencies under the same evidence-based standards," and that the most recent amendments to the *Children's Guardian Act* worked to create a "much more simple, unified and - in the case of [SSRC] - contemporary approach to regulation."¹⁴²

¹³⁵ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 19.

¹³⁶ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 19; Office of the Children's Guardian, [NSW Child Safe Standards for Permanent Care](#), November 2015, accessed online 9 September 2022, p iii.

¹³⁷ [Children and Young Persons \(Care and Protection\) Act 1998](#) (NSW), Ch 8, pt 1, s135A.

¹³⁸ [Children and Young Persons \(Care and Protection\) Act 1998](#) (NSW), Ch 8, pt 1, s135B.

¹³⁹ Office of the Children's Guardian, [About specialised substitute residential care](#), last updated 21 September 2022, accessed online 12 October 2022.

¹⁴⁰ Office of the Children's Guardian, [New laws for specialised substitute residential care](#), media release, 29 August 2022, accessed 12 October 2022.

¹⁴¹ Office of the Children's Guardian, [Registration](#), last updated 14 September 2022, accessed online 12 October 2022.

¹⁴² Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 19.

- 2.73 We note that, as of this report's writing, statutory and supported OOHC in NSW remain regulated by the *Children and Young Persons (Care and Protection) Act 1998* (NSW).¹⁴³

Engagement and consultation about the CSS

- 2.74 We heard that the OCG's focus during the first year of the CSS' operation will be on promoting awareness and engagement with the Scheme. The Guardian said that the OCG had the view that emphasising that 'it's a preventative scheme' was very important.¹⁴⁴
- 2.75 In particular, the OCG told us they have put a lot of emphasis on the sport and recreation sector, including work with specific codes within the sector such as rugby league and cricket.¹⁴⁵ We were also pleased to hear that the OCG works alongside the Office of Sport and uses this partnership to promote the Office's 'role in leading sport'.¹⁴⁶
- 2.76 The Guardian emphasised that organisations are trying to do the right thing and that 'largely', they do. The OCG sees their role as providing insight and resources to enable compliance within organisations, rather than necessarily 'telling them what to do'.¹⁴⁷
- 2.77 The Committee commends the work of the OCG in promoting awareness and engagement with the CSS, and building relationships with sectors to ensure the Scheme is successfully incorporated into practice across organisations in NSW. The Committee will follow the development of the CSS over the coming reporting periods with interest.

¹⁴³ [Children and Young Persons \(Care and Protection\) Act 1998](#) (NSW), esp ch 8.

¹⁴⁴ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 22.

¹⁴⁵ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 22.

¹⁴⁶ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 22.

¹⁴⁷ Ms Schorer, [Transcript of evidence](#), 24 June 2022, p 22.

Appendix One – Committee's functions

Part 7 of the *Advocate for Children and Young People Act 2014* sets out the Committee's functions as:

- (a) to monitor and review the exercise by the Advocate of the Advocate's functions,
- (b) to monitor and review the exercise by the Children's Guardian of functions under—
 - (i) the *Child Protection (Working with Children) Act 2012*, or
 - (ii) the *Children's Guardian Act 2019* in relation to the reportable conduct scheme and working with relevant entities to prevent, identify and respond to reportable conduct and promote compliance with the scheme,
- (c) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter relating to the Advocate or connected with the exercise of the Advocate's functions, or on any matter relating to the exercise of the Children's Guardian's functions specified in paragraph (b), to which, in the opinion of the Joint Committee, the attention of Parliament should be directed,
- (d) to examine each annual or other report of the Advocate and report to both Houses of Parliament on any matter appearing in, or arising out of, any such report,
- (e) to examine trends and changes in services and issues affecting children and young people, and report to both Houses of Parliament any changes that the Joint Committee thinks desirable to the functions and procedures of the Advocate,
- (f) to inquire into any question in connection with the Advocate's functions which is referred to it by both Houses of Parliament, and report to both Houses on that question.

Part 3A of the *Children's Guardian Act 2019* sets out additional functions of the Committee as:

- (a) to monitor and review the functions of the Children's Guardian in—
 - (i) overseeing the implementation of the Child Safe Standards by child safe organisations,
 - (ii) the enforcement of the Child Safe Standards within child safe organisations,
 - (iii) establishing child safe action plans with prescribed agencies,
- (b) to review the activities of the Children's Guardian for consistency with the Royal Commission recommendations,
- (c) to review guidelines issued by the Minister under section 8AB(1) for consistency with the Royal Commission recommendations,

- (d) to report to both Houses of Parliament, with such comments as it thinks fit, on any matter which the Committee considers should be brought to the attention of Parliament relating to the following—
 - (i) the exercise of the Children's Guardian's functions specified in paragraphs (a) and (b),
 - (ii) guidelines issued by the Minister under section 8AB(1).

Appendix Two – Witnesses

Public hearing - Friday, 24 June 2022

Room 814-815, Parliament House

Witness	Position and Organisation
Ms Zoë Robinson	Advocate for Children and Young People, Office of the Advocate for Children and Young People
Ms Shannon Longhurst	Acting Director, Office of the Advocate for Children and Young People
Ms Lua Pellegrini	Current Chairperson, Youth Advisory Council
Ms Julie Charlton	2020/21 Chairperson, Youth Advisory Council
Mr Mohmd Alsomay	Member, Youth Advisory Council
Ms Janet Schorer	Children's Guardian, Office of the Children's Guardian
Ms Sharminie Niles	General Counsel, Office of the Children's Guardian
Mr Steve Gholab	Director, Working with Children Check, Office of the Children's Guardian

Appendix Three – Extracts from minutes

MINUTES OF MEETING no. 17

2.55 pm, Wednesday, 1 December 2021

Room 1254 and Webex videoconference

Members present

Mr Poulos (Chair), Mr Donnelly, and Mr Shoebridge.

Members attending via videoconference

Ms Harrison, Mr Saunders, Mr Sidgreaves and Ms Preston (via teleconference).

Officers in attendance

Leon Last, Matt Johnson and Mohini Mehta.

1. Confirmation of minutes

Resolved on the motion of Mr Donnelly: That the draft minutes of meeting no 16, held on 21 October, be confirmed.

2. ***

3. Oversight of the Advocate for Children and Young People and the Children's Guardian

3.1. 2022 review of the annual reports and other matters of the Office of the Advocate for Children and Young People Annual Report and Office of the Children's Guardian Annual Report

Resolved on the motion of Mr Sidgreaves, seconded by Mr Donnelly:

- That the Committee conduct a review of the annual reports and other matters in relation to the functions and performance of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian;
- That the Chair and secretariat develop an inquiry plan and timeline and circulate to all members.
- That the Committee holds a public hearing or hearings for the review in 2022 on a date or dates to be determined, and invites the Advocate for Children and Young People, the Children's Guardian, members of the Youth Advisory Council, and other relevant staff from the offices, to appear to give evidence.

4. ***

5. ***

6. Next meeting

The Committee agreed to meet in the week beginning 14 February, with the secretariat to canvass availability of members.

The meeting adjourned at 3.10pm.

MINUTES OF MEETING no. 18

1.40pm, Thursday, 19 May 2022

Jubilee Room

Members present

Mr Peter Sidgreaves MP, Ms Melanie Gibbons MP, Ms Abigail Boyd MLC, The Hon Greg Donnelly MLC, The Hon Chris Rath MLC, Ms Jodie Harrison MP, Mr Nathaniel Smith MP

Officers present

Carly Maxwell, Rohan Tyler, Leon Last, Matt Johnson and Mohini Mehta

The Deputy Chair, Mr Sidgreaves opened the meeting at 1.45pm.

1. Membership changes

The Deputy Clerk advised the Committee of the change in membership recorded in:

- The Legislative Assembly Votes and Proceedings of 24 February 2022, No 15, Item 1(a), in which Melanie Gibbons and Leslie Williams were appointed to the Committee, in place of Robyn Preston and Dugald Saunders.
- The Legislative Council Minutes of 24 February 2022, No 4, Item 1(b), in which Catherine Cusack was appointed to the Committee in place of Peter Poulos.
- The Legislative Council Minutes of 30 March 2022, No 8, Item 1(a), in which Chris Rath and Abigail Boyd were appointed to the Committee, in place of Catherine Cusack and David Shoebridge.
- The Legislative Assembly Votes and Proceedings of 31 March 2022, No 17, Item 1(a), in which Stephen Bromhead was appointed to the Committee, in place of Leslie Williams.
- The Legislative Assembly Votes and Proceedings of 18 May 2022, No 13, Item 1(a), in which Nathaniel Smith was appointed to the Committee, in place of Stephen Bromhead.

The Committee noted the changes in membership.

2. Election of Chair

There being a vacancy in the office of Chair of the Committee, the Deputy Clerk called for nominations for the office of Chair.

Mr Smith nominated Mr Sidgreaves as Chair, seconded by Ms Gibbons.

No further nominations were received. There being only one nomination, the Deputy Clerk declared Mr Sidgreaves to be the Chair.

The Deputy Clerk handed the meeting over to the Chair to preside.

3. Election of Deputy Chair

There being a vacancy in the office of Deputy Chair of the Committee, the Chair called for nominations for the office of Deputy Chair.

Mr Smith nominated Ms Gibbons as Deputy Chair, seconded by Mr Rath.

No further nominations were received. There being only one nomination, the Chair declared Ms Gibbons to be the Deputy Chair.

4. Confirmation of minutes

Resolved, on the motion of Mr Donnelly, seconded by Mr Sidgreaves: That the minutes of the meeting of 1 December 2021 be confirmed.

5. ***

6. ***

7. 2022 review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian

The Committee discussed the future dates for conducting a hearing with the Advocate for Children and Young People, the Youth Advisory Council and the Children's Guardian.

Resolved, on the motion of Ms Gibbons, seconded by Ms Boyd: That the secretariat check member availability for a public hearing on 20 or 24 June 2022.

8. ***

9. Next meeting

The meeting adjourned at 2.02pm until a date to be confirmed.

MINUTES OF MEETING no. 19

1.41pm, Wednesday, 8 June 2022

Room 1254

Members present

Ms Melanie Gibbons MP (Deputy Chair), Ms Abigail Boyd MLC, The Hon Greg Donnelly MLC, The Hon Chris Rath MLC, Ms Jodie Harrison MP, Mr Nathaniel Smith MP

Officers present

Clara Hawker, Leon Last, Matt Johnson, Ilana Chaffey and Mohini Mehta

Apologies

Mr Peter Sidgreaves (Chair)

In the absence of the Chair, the Deputy Chair, Ms Gibbons, opened the meeting at 1.41pm.

1. Confirmation of minutes

Resolved, on the motion of Mr Rath, seconded by Mr Smith: That the minutes of the meeting of 19 May 2022 be confirmed.

2. 2022 review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian

The Committee discussed arrangements for the upcoming hearing with the Advocate for Children and Young People, Youth Advisory Council and the Children's Guardian, scheduled for Friday, 24 June.

3. ***

4. ***

5. Next meeting

The meeting adjourned at 2.01pm until 24 June.

MINUTES OF MEETING no. 20

10.02am, Friday, 24 June 2022

Room 814/815 and Webex videoconference

Members present

Mr Peter Sidgreaves MP (Chair), Ms Jodie Harrison MP, the Hon Greg Donnelly MLC, the Hon Chris Rath MLC and Ms Melanie Gibbons MP (Deputy Chair) (videoconference)

Officers present

Sam Griffith, Matt Johnson, Ilana Chaffey, Mohini Mehta

Apologies

The Hon Abigail Boyd MLC, Mr Nathaniel Smith MP.

1. Deliberative meeting

1.1. Pre-hearing resolutions

Resolved on the motion of Ms Harrison, seconded Mr Donnelly:

1. That the Committee invite the witnesses listed in the notice of hearing for Friday, 24 June 2022 to give evidence in relation to the inquiry into the 2022 review of annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian.
2. That the Committee authorises the audio-visual recording, photography and broadcasting of the public hearing on 24 June 2022, in accordance with the guidelines for the coverage of proceedings for parliamentary committees administered by the Legislative Assembly.
3. That witnesses be requested to return answers to questions taken on notice and additional questions within 14 days of the date on which the questions are forwarded to the witnesses.

The meeting concluded at 10.03am.

2. Public hearing - 2022 review of annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian

The Chair opened the hearing at 10.03am and made a short opening statement. Witnesses were admitted.

Ms Zoë Robinson, Advocate for Children and Young People, was affirmed and examined.

Ms Shannon Longhurst, Acting Director, Office of the Advocate for Children and Young People, was affirmed and examined.

Ms Robinson made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

Ms Lua Pellegrini, current Chairperson, Youth Advisory Council, was sworn and examined.

Mr Mohmd Alsomay, Member, Youth Advisory Council, was sworn and examined. Ms Julie

Charlton, 2020/2021 Chairperson, Youth Advisory Council, was affirmed and examined by videoconference.

Ms Pellegrini, Mr Alsomay and Ms Charlton made opening statements.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The hearing adjourned at 11.42am and resumed at 12.10pm.

Ms Janet Schorer, Children's Guardian, Office of the Children's Guardian, was sworn and examined. Ms Sharminie Niles, Director, Legal Services, Office of the Children's Guardian, was sworn and examined. Mr Steve Gholab, Director, Working with Children Check, Office of the Children's Guardian, was sworn and examined.

Ms Schorer made an opening statement.

The Committee questioned the witnesses. Evidence concluded and the witnesses withdrew.

The public hearing concluded at 1.13 pm.

3. Deliberative meeting

The Chair opened the deliberative meeting at 1.15 pm.

3.1. Confirmation of minutes

Resolved, on the motion of Ms Harrison, seconded Mr Donnelly: That the minutes of the meeting of 8 June 2022 be confirmed.

3.2. Publication orders

Resolved, on the motion of Mr Rath, seconded Mr Donnelly: That the corrected transcript of public evidence given today be authorised for publication and uploaded on the Committee's website.

4. ***

5. Next meeting

The meeting adjourned at 1.35pm until a later date.

MINUTES OF MEETING no. 21

9.22am, Friday, 12 August 2022

Room 814/815 and Webex videoconference

Members present

Mr Peter Sidgreaves MP (Chair), Ms Melanie Gibbons MP (Deputy Chair) (videoconference), The Hon Abigail Boyd MLC, Ms Jodie Harrison MP, the Hon Chris Rath MLC, Mr Nathaniel Smith MP

Officers present

Clara Hawker, Matt Johnson, Patrick Glynn, Mohini Mehta

Apologies

The Hon Greg Donnelly MLC.

1. Pre-hearing deliberative meeting

1.1. Confirmation of minutes

Resolved, on the motion of Ms Harrison, seconded by Mr Rath: That the minutes of the meeting of 24 June 2022 be confirmed.

1.2. Inquiry into the 2022 review of annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian

1.2.1. Answers to questions on notice

Resolved, on the motion of Mr Rath, seconded by Ms Boyd: That the Committee publish on its website:

- Answers to questions on notice and supplementary questions from the Office of the Children's Guardian on 12 July
- Answers to questions on notice from the Office of the Advocate for Children and Young People and Youth Advisory Council on 15 July and 27 July
- Answers to supplementary questions from the Office of the Advocate for Children and Young People and Youth Advisory Council on 22 July 2022

Resolved, on the motion of Mr Rath, seconded by Ms Boyd: That the following documents be kept confidential to the Committee:

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2. ***

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10. Next meeting

The meeting adjourned at 3.42 pm until a date and time to be confirmed.

UNCONFIRMED MINUTES OF MEETING no. 21

1.32pm, Tuesday 18 October 2022

Room 814/815 and Webex videoconference

Members present

Mr Peter Sidgreaves MP (Chair), Ms Melanie Gibbons MP (Deputy Chair), the Hon Abigail Boyd MLC (Videoconference), the Hon Greg Donnelly MLC, Ms Jodie Harrison MP, the Hon Chris Rath MLC, Mr Nathaniel Smith MP (Videoconference)

Officers present

Clara Hawker, Matt Johnson, Patrick Glynn, Ilana Chaffey, Mohini Mehta

1. Confirmation of minutes

Resolved, on the motion of Mr Rath, seconded by Mrs Gibbons: That the minutes of the meeting of 12 August 2022 be confirmed.

2. Oversight of the Office of the Children's Guardian and Office of the Advocate for Children and Young People

2.1. Term of the Children's Guardian

The Committee noted that Ms Janet Schorer, Children's Guardian, has resigned, with 23 October being her last day in office.

3. 2022 review of the annual and other reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian

3.1. Consideration of the Chair's draft report

The Committee considered the Chair's draft report.

Resolved, on the motion of Ms Gibbons, seconded Mr Rath: That the report be considered chapter by chapter.

3.1.1 Chapter 1

Resolved, on the motion of Mr Donnelly, seconded Ms Gibbons: That a new recommendation be inserted above paragraph 1.24 of the draft report, reading:

"That in light of evidence provided to the inquiry and other research available in the public domain regarding the growing trend of school students using e-cigarettes or 'vapes', the Committee write to the Office of the Advocate for Children and Young People and request the Advocate for Children and Young People, through ongoing consultations, to collect information relating to this matter and report back on findings to the 2023 public hearing."

Resolved, on the motion of Mr Donnelly, seconded Ms Harrison: That Chapter 1, as amended, stand part of the report.

3.1.2 Chapter 2

Resolved, on the motion of Mr Donnelly, seconded Ms Harrison: That a new recommendation be inserted after paragraph 2.44 of the draft report, reading:

"That in light of evidence provided to the inquiry and the ongoing growth of children and young people working in the "gig economy", the Committee write to the Office of the Children's Guardian and request the Children's Guardian to review the matter in detail and report back on findings to the 2023 public hearing."

Resolved, on the motion of Ms Gibbons, seconded Mr Donnelly: That recommendation 3 of the draft report be amended to include the words "and relevant Minister", so that the recommendation now reads:

"That the Treasurer and relevant Minister monitor the needs of the Office of the Children's Guardian as its work and responsibilities expand under the Child Safe Scheme, and increase funding as appropriate."

Resolved, on the motion of Ms Gibbons, seconded Mr Donnelly: That Chapter 2, as amended, stand part of the report.

3.2 Adoption of report

Resolved, on the motion of Ms Harrison, seconded Mr Donnelly:

1. That the draft report as amended be the report of the Committee, and that it be signed by the Chair and presented to the House.
2. That the Chair and committee staff be permitted to correct stylistic, typographical, and grammatical errors.
3. That, once tabled, the report be posted on the Committee's webpage.

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6. **Next meeting**
The meeting adjourned at 2.01 pm until a date and time to be confirmed.

Appendix Four – Glossary

ACYP	Advocate for Children and Young People
OCG	Office of the Children's Guardian
RCS	Reportable Conduct Scheme
WWCC	Working with Children Check
YAC	Youth Advisory Council
