

**The Hon Kate Washington MP**

Minister for Families and Communities  
Minister for Disability Inclusion

**The Hon Rose Jackson MLC**

Minister for Water, Minister for Housing,  
Minister for Homelessness, Minister for  
Mental Health, Minister for Youth



Ref: EAP24/20034

Mr Steven Reynolds  
Clerk of the Legislative Council  
Parliament of New South Wales  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Ms Helen Minnican  
Clerk of the Legislative Assembly  
Parliament of New South Wales  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Reynolds and Ms Minnican,

**Government response to the Joint Committee on Children and Young People  
Report 1/58: 2024 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**

We write to provide the NSW Government's response to the Committee on Children and Young People Report 1/58 '2024 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' for tabling in both Houses of Parliament.

The NSW Government thanks the Committee members for their diligent and careful consideration of issues arising in their review of the oversighted operations of the Children's Guardian and the Advocate for Children and Young People. The Government also wishes to acknowledge the important contribution of the Children's Guardian and Advocate who participated in the Committee's inquiry.

The Government has carefully considered the Committee's Report and its findings and recommendations, in consultation with the Children's Guardian and the Advocate. The Government's response to each of the recommendations is set out below.

*Recommendation 1: That for the Committee to properly exercise its oversight role, the NSW Government should urgently introduce legislation to clarify that the Committee's scrutiny role over the Children's Guardian should be in the same terms as that exercised over the Advocate for Children and Young People.*

The NSW Government supports this recommendation.

The NSW Government acknowledges that the Committee's oversight of the Children's Guardian has developed in an ad hoc way over time, as the Children's Guardian has acquired various functions that were previously oversighted by other Parliamentary Joint Committees. Consequently, the Committee's oversight over the Children's Guardian is not in the same terms as its oversight over the Advocate, and the Government considers that it should be.

The NSW Government supports robust oversight of independent statutory officers, and accepting this recommendation will promote more effective scrutiny of the Children's Guardian. It will also align the functions of the Committee with its oversight over the Advocate and the functions of other Parliamentary Committees that are charged with oversight of other statutory bodies.

*Recommendation 2: That the NSW Government amend the Children's Guardian Act 2019 to provide the Committee with the power to veto proposed appointments of the Children's Guardian.*

The NSW Government does not support this recommendation. On balance, the NSW Government considers that it is appropriate that the appointment of the Children's Guardian remains a function of Government.

The Children's Guardian can be distinguished from other statutory officers whose appointments may be vetoed by the relevant Parliamentary Committee. These are generally statutory officers with strong coercive powers, tasked with ensuring the integrity and financial management of public administration, and responding to and investigating complaints made about the conduct of public authorities or public services.

*Recommendation 3: That the NSW Government introduce legislation to:*

- *consolidate the Committee on Children and Young People's oversight functions relating to the Children's Guardian into the Children's Guardian Act 2019, and*
- *omit these sections from the Advocate for Children and Young People Act 2014.*

The NSW Government supports this recommendation, and agrees with the Committee that it promotes accessibility and transparency for the oversight of the Children's Guardian. This recommendation also aligns with other Parliamentary Committees whose oversight functions are outlined in the legislation that establishes the statutory officer.

*Recommendation 4: That the NSW Government:*

- *consider amending the Children's Guardian Act 2019 to establish an inspector of the Children's Guardian and to provide the Committee with oversight of the inspector, including the power to veto proposed appointments, or*
- *consider other options for strengthening the oversight over this office such as to make the Children's Guardian partly subject to the control and direction of the relevant Minister with important exceptions.*



The NSW Government supports the recommendation to consider other options for strengthening the oversight of the Office of the Children's Guardian.

This work will consider whether to make the Children's Guardian partly subject to the control and direction of the relevant Minister with important exceptions. The NSW Government agrees with the Committee that any changes to the existing oversight model will require consideration of the risks and benefits. As suggested by the Committee, this further work will consider the settings that apply to the Health Care Complaints Commission, and how to appropriately balance the Children's Guardian's independence, while promoting the transparency of the Office's operations. The NSW Government will also consult with the Children's Guardian and relevant stakeholders on this matter.

The NSW Government has carefully considered the recommendation to establish an inspector of the Children's Guardian and does not support this recommendation. The NSW Government is of the view that it would be preferable to enhance the Committee's oversight of the Children's Guardian in line with Recommendation 1 of the Committee Report, and explore other options for strengthening the oversight of the Children's Guardian, as suggested by the Committee.

*Recommendation 5: That the NSW Government update the Committee on its discussions with other states and territories regarding facilitating better information sharing around Australia, particularly in relation to Working with Children Checks and the Reportable Conduct Scheme.*

The NSW Government supports this recommendation.

By way of update to the Committee, the Minister for Families and Communities led discussions on the national information sharing scheme (the Scheme) at the Ministerial Forum on Child Safety hosted by the Commonwealth Attorney-General on 24 November 2023. All jurisdictions agreed in-principle to explore possible legislative and administrative options to implement the Scheme, as recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse (recommendations 8.6 to 8.8).

NSW is continuing to work with other jurisdictions to support better information sharing, including in respect of the Working with Children Check Scheme and Reportable Conduct Scheme, and their equivalent schemes in other jurisdictions. In May 2024, an Information Sharing Sub-Working Group was established to progress developing models for this Scheme, under the National Strategy to Prevent and Respond to Child Sexual Abuse 2021-2030.

This Working Group is currently sourcing information from states and territories about their existing legislative and administrative information sharing arrangements to identify key issues.

*Recommendation 6: That the Children's Guardian work with the NSW Government to identify Working with Children Check application trends and whether these align with community and employer expectations.*

The NSW Government supports this recommendation, and notes that the Children's Guardian is currently progressing a review of the *Child Protection (Working with Children) Act 2012*. This review will consider the scope and application of this Act and will include public consultation.

*Recommendation 7: That the Children's Guardian work with the NSW Government and the community to identify whether the current definition of reportable conduct is too narrow. This should include an assessment of the potential workload and resourcing impacts of an expanded definition.*

The NSW Government notes this recommendation. The recent *Statutory Review of the Children's Guardian Act* considered whether the current definitions of reportable conduct are appropriate, and sufficiently clear for entities to apply them, and whether they capture the type of conduct necessary to respond to allegations of child abuse. The statutory review report found that the current settings are appropriate, and there should be no changes to how reportable conduct is defined. In reaching this finding, the review noted the broader child protection landscape and in particular, the role of the Child Safe Scheme, which is also administered by the Children's Guardian and complements the reportable conduct scheme. This scheme requires child safe organisations to have systems, policies and processes in place that comply with the Child Safe Standards.

*Recommendation 8: That, in future annual reports, the Advocate for Children and Young People provides more detail on its sources of funding, including from state and federal governments, and how that funding is spent.*

*Recommendation 9: That the Advocate for Children and Young People include data about diversity in its reporting, including in annual reports, that includes cultural diversity and the percentage of children and young people from regional, rural and remote areas, and other marginalised and underrepresented groups.*

*Recommendation 10: That, in future annual reports, the Advocate for Children and Young People consider including data from its new tracking mechanism monitoring the implementation of recommendations to stakeholders.*

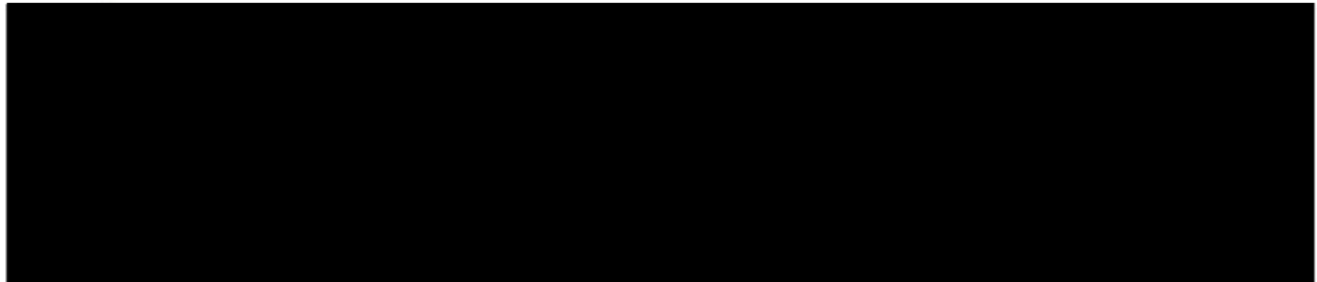
The NSW Government supports recommendations 8 - 10, noting that the Advocate for Children and Young People has been consulted and has confirmed its support of these recommendations and its commitment to address these matters in their annual report going forward. We note that the Advocate has previously responded to the Committee indicating its support of these recommendations.



*Recommendation 11: That the NSW Government consider amending section 21(3) of the Advocate for Children and Young People Act 2014 so that all 12 members of the Youth Advisory Council are persons under the age of 25 years.*

The NSW Government supports this recommendation. As the Advocate has advised the Committee, it is already common practice for all members of the Youth Advisory Council to be under the age of 25 years. The recommendation has stakeholder support and would ensure that the membership of the Youth Advisory Council aligns with the target age group of 12 to 24 years.

Sincerely,



**Kate Washington MP**  
Minister for Families and Communities  
Minister for Disability Inclusion

Date: 22/5/25

**Rose Jackson MLC**  
Minister for Water, Minister for Housing,  
Minister for Homelessness, Minister for  
Mental Health, Minister for Youth

Date: 22/5/25