

QUESTIONS ON NOTICE – OFFICE OF THE CHILDREN’S GUARDIAN

COMMITTEE ON CHILDREN AND YOUNG PEOPLE – 2022 Review of the annual reports and other matters of the Office of the Children’s Guardian

1. **The Hon. GREG DONNELLY:** On the matter of employment of children and young people in the gig economy—this is one of the questions we have been provided with on notice to prompt some discussion, so I will read it out, if you don't mind. It says, "Have the recent changes to the Children's Guardian Act 2019 in relation to third-party employers and their reportable conduct obligations had the desired effect?" With the leading question, "Can you update the Committee on any emerging considerations in the regulation of child-related employment in the gig economy?"

(Transcript page 23)

ANSWER

The rate of notification, through the Reportable Conduct Scheme, of third-party contractors engaged indirectly is low. As part of the statutory review of the *Children’s Guardian Act 2019* alternative options are being explored in consultation with stakeholders.

The Office of the Children’s Guardian (OCG) monitors and audits how organisations are meeting their Working with Children Check (WWCC) obligations.

Employers and sole traders in child-related work have legal obligations around the WWCC.

Employers and organisations need to decide who engages in child-related work and requires a WWCC, or if any roles fall under an exemption.

The WWCC in NSW is an online system and organisations and sole traders are required to make the link between their workers and volunteers, themselves and the OCG by verifying their workers and volunteers, and by keeping a record that they have done so.

The OCG has responsibility for protecting the safety, welfare and wellbeing of children and young people who are employed in specific industries, including entertainment and modelling. These industries frequently engage and employ children as independent contractors and often on a short-term basis for a specific project and must comply with the *Children’s Guardian Act 2019* when engaging children.

Care providers sometimes engage workers from external staffing or recruitment agencies, known as a 'labour hire agency'. The Children’s Guardian Regulation 2022 defines a 'labour hire agency' as: *a person who on a commercial basis provides services for finding work for individuals*. Children and young people may be engaged by agencies through labour hire agencies. A designated agency has the same responsibilities and obligations for staff sourced from a labour hire agency as it does towards those recruited internally. The designated agency must supervise the care that the person provides and investigate any complaints or reportable allegations against the worker.