

# 2025 Review of the Advocate for Children and Young People

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## Questions on Notice (ACYP)

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### Cost of Living – PCYC Services (Page 7)

As the Advocate flagged at the hearing, it is not for ACYP to comment on the operating model of an organisation. What is provided here is the understanding held by the Advocate through interactions with PCYC's over the past six years. Any further information should be sought from PCYC directly.

One of the benefits of the PCYC business model is that the clubs will work together to support each other with resources, whether this be financial or 'in kind' support. However, this can at times causes pressure for the larger clubs to succeed so that they can support the programs of smaller clubs.

However anecdotally, I understand that each centre will have some discretion as to how this operates. Each centre knows their community and the circumstances of those who use the facilities. For example, there may be instances where a centre will not charge for the use of a basketball court, if the court had not previously been booked.

There are also instances where staff will cover the cost of participants or programs at their own expense. While generous, this reiterates that we cannot expect these programs to be sustainable without proper investment and resources. To alleviate this, PCYC will often seek grant funding to ensure continuity of service.

I understand, that wherever possible, PCYC tries not to turn children and young people away from their service as this may be the one safe place for them to go or the only opportunity they have for recreation.

## Children (Protection and Parental Responsibility) Act 1997 No 78 (Page 8)

### Current Application of the Act

#### 1. Parental Responsibility Orders

The Act empowers courts to require parents to attend proceedings, give undertakings, or participate in counselling if their child is involved in criminal activity.

#### 2. Police Powers in Public Places

Police officers can remove children from public places during certain hours if they believe the child is at risk. This power is contingent upon the area being declared an "operational area" under the Act. The Act specifies the conditions under which police may act and outlines the procedures they must follow.

#### 3. Local Crime Prevention Plans

The Act allows local councils to develop crime prevention plans in collaboration with police and community members.

### Further Details on Police Powers in Public Places

#### 1. Removal of Children from Public Places

Under Part 3 of the Act, police are authorised to remove a child under the age of 16 from a public place in designated areas (as prescribed by regulation or local crime prevention plans) if the child:

- Is without adult supervision, and
  - Is at risk of harm, or
  - Is likely to commit an offence, or
  - Is engaging in risky behaviour.

#### 2. Designated Operational Areas

- These police powers apply only in specific local government areas where the Act has been formally invoked and a Local Crime Prevention Plan is in place.
- Examples include parts of Orange, Moree, and Walgett, among others. The Order for the Operational Area of the Local Government Area of Orange is due to expire on 30 June 2025. Further information can be found [here](#).

#### 3. What Police Can Do

If a child is found under the above conditions, police may:

- Direct the child to go home or to a safe place;
- Take the child into custody temporarily, and
- Transport the child to:
  - Their home (if safe to do so);
  - A youth refuge or welfare service;
  - A place of safety.

Police must inform a parent or guardian of the child's whereabouts where possible and as soon as practical.

#### 4. Safeguards and Limitations

- Police cannot detain a child in custody (such as a police cell) unless another law (e.g., for committing an offence) authorises it.
- The Act explicitly does not criminalise the child for being in the public place.
- The intent is protective, not punitive.

#### Criticism and Practical Use

- Concerns have been raised by bodies such as the NSW Ombudsman that these powers:
  - Disproportionately affect Aboriginal children;
  - May result in over-policing of youth in public spaces;
  - Lack strong evidence of effectiveness in preventing crime; and
  - May be incompatible with human rights and the child's best interest.

#### Current Status

While the Act itself remains in force, its supporting regulation, the Children (Protection and Parental Responsibility) Regulation 2019 was scheduled for automatic repeal on 1 September 2024 under the *Subordinate Legislation Act 1989*. To prevent a regulatory gap, the Children (Protection and Parental Responsibility) Regulation 2024 was enacted on 16 August 2024, effectively replacing the 2019 Regulation without substantial changes.

This 2024 Regulation continues to provide detailed provisions related to:

- Enforcement of undertakings by parents and children;
- Counselling services;
- Departmental protocols for the welfare of children in public places;
- Record-keeping requirements.

It is important to note that while the 2024 Regulation is currently in effect, regulations are typically subject to periodic review and may be repealed or replaced in the future. As of now, there is no publicly announced sunset clause or scheduled repeal date for the 2024 Regulation.

## Refugee and Migrant Report Recruitment (Page 9-10)

ACYP recognises that each culturally and linguistically diverse young person has different and unique experiences. ACYP outlines the similarities and differences between young people's refugee or migration experience and others who were Australian born or second-generation migrants on page 22 of the Refugee and Migrant Children and Young People Report.

### Differences between first and second-generation migrants:

During the consultations, ACYP found that the main differences between first and second-generation Australians were that:

- First generation refugee and migrants are faced with the challenges of displacement, migration and resettlement in a new country and culture.
- Second generation migrants or young people who have settled in Australia for more than five years, navigate challenges around how they navigate multiple cultures, identities and expectations.

### Differences between established and emerging communities

The key differences between emerging and established communities are dependent upon whether there are existing services, support networks and community structures to provide ongoing support to these communities.

During consultations with children and young people, they did not identify themselves as from an emerging or established community. ACYP noted that the young people differentiated themselves from their communities based on how recently arrived they were in NSW, their current location and whether they lived in a high or low humanitarian settlement area or multicultural community.

However, ACYP noted that for young people from regional areas or less multicultural communities, they were more likely to have a lower sense of belonging in comparison to young people who are from established communities in Western Sydney or multicultural communities.

ACYP also observed that young people from emerging communities in regional NSW, in areas such as African communities in Cooma and the Congolese community in Albury, expressed their appreciation for multicultural community centres, religious institutions and services. These services provided young people the opportunity to celebrate their culture whilst meeting and learning about people other cultures.

### Recruitment Process for the Refugee and Migrant Report

As a part of the project, ACYP sought input from Multicultural NSW, the Department of Education and seven external specialist multicultural services in NSW, which is outlined on page 21 of ACYP's Refugee and Migrant Report. These partner agencies were used to inform and test ACYP's approach, scope and context for this work.

During the recruitment phase of the project, ACYP reached out to a diverse number of schools, multicultural centres and specialist service providers across NSW. Due to resourcing and time constraints, ACYP were unable to consult with refugee and migrant children and young people in all regions of NSW. Some multicultural service providers and schools were also unable to participate due to their own time and resourcing constraints.

The locations of the consultations were chosen based off places that recently arrived young people would connect with (for example, schools, after school programs and multicultural centres and services) and recommendations made by our partner agencies. ACYP made the decision to focus on Western and South-Western Sydney, given the high number of humanitarian and migrant settlement areas indicated by Australian Bureau of Statistics data, Multicultural NSW and Department of Home Affairs.

For most recently arrived young people, Intensive English Centres in NSW Public Schools would be their first point of contact when it comes to education. ACYP reached out to NSW's Department of Education's Intensive English Programs Advisor, to see if they can share an expression of interest to 16 IEC schools across NSW during a quarterly Executive meeting in February 2024. Four IEC schools across regional NSW and Metropolitan Sydney were interested and took up the opportunity to be involved in consultations.

ACYP reached out to schools within the Sydney Catholic Schools networks for opportunities to participate in the project. ACYP also spoke to the Manager of Community Cohesion from the Association of Independent Schools of NSW. Due to resourcing and timing constraints, ACYP was unable to pursue consultations with these schools' system.

ACYP also identified that multicultural communities in the Southeast-Tablelands region was a knowledge gap in the sector, given the rising population of migrant families emigrating to the region to work for the Snowy Hydro Project. Upon the advice of Multicultural Hubs in the South-East Tablelands, ACYP heard about the tensions between emerging and existing migrant communities. A member of the 2024 NSW Youth Advisory Council, who had recently arrived in Australia, also raised these concerns with ACYP. With this knowledge, ACYP reached out to schools and services within the South-East Tablelands region and conducted consultations at a number of schools and services as noted in the Report.

The schools and services that ACYP consulted are outlined on page 25.

ACYP acknowledges that young people will often access services and programs outside their immediate electorate, given their diverse interests and needs. During consultations, ACYP did not ask young people to share where they lived and only took note of where we consulted with the young people.

As a part of the recruitment, representatives from the Youth Transition Support Program at the Community Migrant Resource Centre participated in the beginning stages of the project. Their youth clients predominantly lived in Western Sydney but could not participate in the consultations due to resourcing. There were instances where ACYP was unable to participate in consultations in some electorates in Western Sydney due to a lack of uptake from schools and services providers.

There were also instances where ACYP used a centralised location to bring together young people from multiple LGA's. For example, ACYP reached out to Cumberland Multicultural Services who invited students from Granville TAFE and Granville South Creative and Performing Arts High School to participate in the consultation. ACYP facilitated this consultation at the Cumberland Multicultural Services Centre in Guildford and spoke to 32 young people.

ACYP also spoke to 14 young people from the STARTTS Fairfield's youth drop-in session and 22 students from Fairfield IEC.