

**Submission  
No 23**

## **VOLUNTEERING AND UNPAID WORK PLACEMENTS AMONG CHILDREN AND YOUNG PEOPLE IN NSW**

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Mr Mark Coure, MP  
Chair  
Committee on Children and Young People  
Parliament House  
Macquarie Street  
SYDNEY NSW 2000

Dear Mr Coure

I welcome the opportunity to comment on the *Inquiry into volunteering and unpaid work placements among children and young people in NSW*.

Please find my submission attached.

I look forward to further discussions with the Committee on Children and Young People.

Yours sincerely



**Kerryn Boland**  
**Children's Guardian and**  
**A/Commissioner for Children and Young People**

19 May 2014

## **Inquiry into volunteering and unpaid work placements among children and young people in NSW**

The NSW Children's Guardian welcomes the opportunity to provide a submission to the inquiry into volunteering and unpaid work placements among children and young people in NSW. The focus of the submission is to address the Term of Reference concerned with the role of the Office of the Children's Guardian in supporting and promoting safe volunteering and unpaid work placement opportunities among children and young people in NSW.

The relevant functions for the purpose of this inquiry are those related to persons engaged in child-related work (the Working With Children Check), encouraging organisations to be safe for children (Child Safe Organisations) and employment of children in prescribed employment (referred to as children's employment).

This submission will also provide information on policies and practices promoted through the Child Safe Organisations program that supports and assists organisations to provide safe and welcoming environments for children and young people participating in volunteering and/or unpaid work placements.

### **BACKGROUND**

#### **The Children's Guardian and the Office of the Children's Guardian**

The Children's Guardian is established under the NSW *Children and Young Persons (Care and Protection) Act 1998* (the Care Act) as a statutory office that reports directly to the Minister for Family and Community Services and to Parliament.

On 17 May 2013, the Office of the Children's Guardian was established as a separate Division of the Government Service. The Office of the Children's Guardian, which supports the Children's Guardian in the exercise of her functions, is independent of the Department of Family and Community Services (FACS), but is located in the Family and Community Services cluster for administrative purposes.

On 15 June 2013, a new Working With Children Check system commenced under the *Child Protection (Working With Children) Act 2012* and *Child Protection (Working with Children) Regulation 2013* (the WWC Regulation). At the same time the *Child Protection Legislation Amendment (Children's Guardian) Act 2013* transferred responsibility for administering the new Working With Children Check, encouraging organisations to be safe for children, and administering the Child Sex Offender Counsellor Accreditation Scheme (CSOCAS) from the Commission for Children and Young People (CCYP) to the Office of the Children's Guardian (OCG).

## **Principal functions of Children’s Guardian**

The Children’s Guardian’s principal functions under the *Children and Young Persons (Care and Protection) Act 1998* are as follows:

- to exercise functions relating to persons engaged in child-related work, including working with children check clearances, under the *Child Protection (Working with Children) Act 2012*
- to promote the best interests of all children and young persons in out-of-home care,
- to ensure that the rights of all children and young persons in out-of-home care are safeguarded and promoted,
- to establish a register for the purpose of the authorisation of individuals as authorised carers, and to maintain that register, in accordance with the regulations,
- to accredit designated agencies and to monitor their responsibilities under this Act and the regulations,
- to register organisations that provide or arrange voluntary out-of-home care and to monitor their responsibilities under this Act and the regulations,
- to exercise functions relating to the employment of children, including the making and revocation of exemptions from the requirement to hold an employer’s authority,
- to develop and administer a voluntary accreditation scheme for persons working with persons who have committed sexual offences against children,
- to develop and administer a voluntary accreditation scheme for programs for persons who have committed sexual offences against children,
- to encourage organisations to develop their capacity to be safe for children as referred to in section 38 of the *Child Protection (Working with Children) Act 2012*.

The Children’s Guardian is accountable to the Parliamentary Joint Committee for the exercise of functions under the *Child Protection (Working with Children) Act 2012*.

## **The role of the Office of the Children’s Guardian in supporting and promoting safe volunteering and unpaid work placements among children and young people in NSW**

Volunteering and unpaid work placements provide children and young people with valuable opportunities to gain skills and experience and to contribute to the life of their communities. Many organisations that seek to involve young people in their work or encourage young people’s participation seek assistance from the Office of the Children’s Guardian (OCG) to ensure that their organisations are ‘child safe’.

The relevant functions of the Children’s Guardian related to volunteering and unpaid work placements are (as previously indicated) the Working With Children Check, the Child Safe Organisations program and children’s employment. These are discussed below.

### **Working with Children Check**

The *Child Protection (Working with Children) Act 2012* and the *Child Protection (Working with Children) Regulation 2013* provide the legislative framework for functions relating to persons engaged in child-related work, including working with children check clearances and encouraging organisations to develop their capacity to be safe for children.

The Working With Children Check (WWCC) is a prerequisite for anyone over the age of 18 years employed in child-related work in NSW. The WWCC is free for volunteers, students on professional placement, prospective adoptive parents, and authorised carers. Volunteers and students, over the age of 18 years, in child-related work are required to have a WWCC clearance.

Under the *Child Protection (Working with Children) Regulation 2013* cl 20(g) people under the age of 18 are exempt from the requirement to have a WWCC clearance. While people who are working in child related employment are required to have a WWCC, people who work with children or young people as colleagues, for example employment in work placement scenarios, are not required to have a WWCC<sup>1</sup>. Generally speaking most of these situations concern young people rather than children. This exemption, as with the others in the legislation, recognises that *there are certain circumstances where a Working With Children Check is not the most appropriate means to provide for the safety of children in a workplace*<sup>2</sup>. The onus is on organisations to ensure that people working alongside young people are fit and proper persons, workplaces have appropriate policies and procedures in place to ensure safety, adequate supervision arrangements are in place and young people gain maximum benefit from their participation.

Often organisations rely on the WWCC to protect children. While a WWCC is a prerequisite for child-related work in NSW, it can only evaluate a person’s suitability to work with children based on previous, known records. While a criminal record check can be an important tool in an organisation’s approach to being ‘child safe’, implementing effective child safe policies and practices is the best way for an organisation to protect the children.

### **Child Safe Organisations**

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<sup>1</sup> *Child Protection (Working with Children) Regulation 2013* cl 20(j)

<sup>2</sup> NSW Commission for Children and Young people, Regulatory Impact Statement for *Child Protection (Working With Children) Regulation 2012*

Encouraging organisations to develop their capacity to be safe for children is a principle function of the Children's Guardian (section 38 of the *Child Protection (Working with Children) Act 2012*).

The Child Safe Organisations program encourages organisations to improve their policies and practices and provides organisations and agencies with resources to become 'child safe'.

The Office of the Children's Guardian works with organisations in a number of ways including providing organisations with training, advice, support, resources and templates that aid the development of 'child safe' policies, procedures and practices. Underpinning the framework is the Child Safe Organisations training which is delivered throughout New South Wales. The training sessions are delivered in a half-day or full-day sessions and include:

- Explanation and exploration of situational prevention in organisations
- Risk of harm and child abuse
- Importance of codes of conduct
- Effective recruitment, training and supervision
- Risk management plans
- Importance of children and young people's participation in service and program development
- Effectively dealing with concerns and complaints

For organisations that require assistance to become 'child safe', the Office of the Children's Guardian offers tailored information sessions to address the specific needs of the agency or sector.

Organisations that provide volunteering or unpaid work opportunities for children and young people seek to ensure that they are able to provide safe environments where all stakeholders (volunteers, staff and community members) are able to maximise the benefits from volunteering. However many organisations are unsure that they have the requisite knowledge or expertise to manage child or youth volunteering and seek advice and support to address perceived risks associated with child and youth volunteering. For example, when working with agencies the following issues are consistently identified as being of concern:

- *Volunteers under the age of 18 years pose a risk for the organisation or for adults who work alongside them.* This perceived risk is likely to be influenced by the growing awareness of child abuse, particularly child sexual assault. Training for organisations on how best to recruit and supervise adult volunteers who are co-workers or peers with young volunteers is one way to address this issue and is provided in Child Safe Organisations training.
- *Existing codes of conduct and procedures/ policies are inadequate to protect children and young people in volunteering roles.* The Child Safe Organisations program assists organisations to

review their policies and procedures to identify way that existing policies can be modified so that they are appropriate for all roles.

- *Children and young people are liabilities because of their maturity, behaviour and/or developmental capabilities.* This is often related to a perceived risk of physical injury or harm, for example from falls or use of equipment. The Child Safe Organisations training provides information on how to identify, assess and mitigate risks associated with physical environments.

It is interesting to note that while concerned with the safety of children and young people, many of the risks have been identified by adults rather than children and young people. Promoting children and young people's participation in organisations, including importantly in the development of policies and programs, is integral to the 'child safe' approach. The Child Safe Organisations program has developed information, training and resources to encourage organisations to value children and young people's participation and assist them to facilitation participation. Organisations are encouraged to listen to children and young people so that their concerns are identified and involve them in developing 'child safe' environments.

The Child Safe Organisations program has worked with a number of volunteer organisations to support and promote safe volunteering and unpaid work placements of children and young people. Examples of this work are provided below to assist the Joint Committee to understanding our work in this area.

#### **Example one: NSW State Emergency Service**

In July 2010 the NSW State Emergency Service (SES) sought assistance to address barriers being faced by young volunteers, who had graduated from the Cadet Program for Secondary Schools, to access volunteering opportunities in SES units throughout NSW. In particular, the SES sought assistance to address perceptions amongst units that having teenage volunteers on site posed too great a risk for serving adult volunteer members.

SES management sought guidance and support with policy review pertaining to youth member involvement, as well as ongoing ways to educate the broader volunteer membership about the value of youth volunteering within their collective units throughout New South Wales. The Child Safe Organisations team provided advice and support to the management of SES (where needed), primarily regarding child safe practices, and liaised with regional SES representatives to address their concerns about engaging young people in local units.

The SES formulated a draft Youth Engagement special bulletin to be circulated state wide to all units and volunteers. This bulletin promoted the value of youth volunteering to both NSW SES and the

wider community. The Child Safe Organisations program assisted the SES with content, key messages and information on commonly held misconceptions about 'risk' when engaging youth volunteers.

Management aimed to foster an acceptance of the youth volunteers in the mainstream units. Rather than developing new policies that governed youth participation, existing policies were amended to include examples relevant to youth volunteers. Rather than isolating youth volunteers from a policy perspective, they were acknowledged within existing policies and codes of behaviour wherever possible. For example, that policy statement all workers have a right to feel safe and comfortable without experiencing sexual harassment was amended to *If any member feels they have been sexually harassed they are to report any incidents to their unit coordinator and/or head office. This applies to all members including youth volunteers.*

The SES has advised the Office of Children's Guardian that the agency's statistical data (2012) identified a significant increase in 15-18 year old membership, an age bracket that in 2010 was their lowest representation of community volunteering.

#### **Example two: NSW Rural Fire Service**

The NSW Rural Fire Service (RFS) promotes engagement of children from 12 years of age, with a history of generational volunteering whereby children of existing volunteers are brought to the organisation from an early age.

In 2010 the RFS sought support and assistance to review of their policies and codes regarding children. The Child Safe Organisations program worked with the RFS to scope the current issues associated with engaging children and young people as volunteers.

The Child Safe Organisations program provided the following support to the NSW RFS:

- Attended a series of meetings with the RFS Volunteer Relations team to scope the issues at hand and identify where Child Safe Organisations could assist in the future.
- Provided guidance and policy support to clarify model practices associated with having children and young people volunteer within their service.
- Ongoing advice and examples of appropriate policy sourced from similar organisations.
- Promoted like-minded organisations to network common issues and responses to issues.

#### **Example three: The Centre for Volunteering (VOLUNTEERING NSW)**



In 2012 the Centre for Volunteering approached the Child Safe Organisations program to assist their members and stakeholders with a 'Child Safe Organisations' seminar. The seminar was well attended and subsequent feedback suggested the attending organisations would benefit from specific training on risk management when engaging young people in volunteer roles.

In consultation with the Child Safe Organisations program, the Centre for Volunteering provided its members with a workshop specialising in the growth and promotion of youth volunteers, with Child Safe providing a seminar on risk management and child participation strategies. It proved to be popular with over 25 organisations represented on the day. The organisations were diverse, from Ozharvest, Starlight Foundation, Cancer Council, Rural Fire Services and Fred Hollows to Mosman Council, Ernst and Young, Sydney University and the University of NSW.

Within the Child Safe seminar the following topics are covered:

- Risk management practices to protect young people from harm within your organisation
- Dispelling myths associated with engaging young people in your organisation
- Young people participating in policy decisions and design
- What to include in codes of conduct for both adults and young people
- Young volunteer recruitment, induction and training
- The new WWCC and exemptions that apply to co-workers / peers

### **Children's employment**

Employers intending to employ models under 16 years of age, and children under 15 years of age for other paid entertainment, exhibition, still photography or door-to-door sales work (known as prescribed industries), must be authorised to do so by the Children's Guardian, unless exempt from the requirement in accordance with children's employment legislation. The Office of the Children's Guardian regulates children's employment in NSW under:

- Chapter 13 and Schedule 2 of the *Children and Young Persons (Care and Protection) Act 1998* (the Act);
- the *Children and Young Persons (Care and Protection) (Child Employment) Regulation 2010* (the Regulation).

The Act and the Regulation cover only paid employment or employment under which some other material benefit is provided to the child or another person in respect of services rendered by the child.

The aim of this legislation is to protect and promote the safety and wellbeing of employed children in prescribed employment, with the *Code of Practice* at Schedule 1 of the Regulation setting out minimum requirements for that employment. The current regulatory scheme was designed to support participation and protect children and young people from undue risk.

There many children and young people participate in unpaid work in prescribed industries. This unpaid work takes a variety of forms including participation in auditions, concerts and events, casting calls, unpaid work in student films and activities organised by dance or stage schools. The Children's Guardian recognises the benefits to children and young people derived through participation in performance activities, be them paid or unpaid. For many people, including children and young people, unpaid work in the entertainment industry may be regarded as an opportunity to gain industry experience that will assist in gaining further paid employment. *Live Performance Australia (LPA)* the peak body for the Live Performance industry acknowledges that employers in this industry may be approached by people seeking to enter unpaid working arrangements and provides resources on unpaid trials, volunteering, work experience and internships and vocational placements<sup>3</sup>.

While the Children's Guardian's functions with regard to children's employment are concerned with regulating paid employment, the resources developed to support the safety and wellbeing of employed children as also relevant to unpaid work in prescribed industries.

The information resources produced by the Office of the Children's Guardian are readily available from the website and the Children's Employment Officers routinely provide advice and support to parents enquiring about their child's participation in unpaid work. The Children's Guardian always encourages employers of children to adopt employment practices that are consistent with the requirements of the Code of Conduct in Schedule 1 of the Regulation, whether or not they are obliged by the Act to comply with it.

The transfer of the functions related to Child Safe Organisations to the Children's Guardian has provided an opportunity for a closer working relationship between children's employment and Child Safe Organisations. Work is currently underway to promote the resources available through the Child Safe Organisation program to children's employers in prescribed industries.

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<sup>3</sup> [https://liveperformance.com.au/unpaid\\_work\\_volunteers](https://liveperformance.com.au/unpaid_work_volunteers)