

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

**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**

At Macquarie Room, Parliament House, Sydney on Friday 7 May 2021

The Committee met at 9:30

PRESENT

Mr Peter Sidgreaves (Acting Chair)

Legislative Council

The Hon. Greg Donnelly

Legislative Assembly

Ms Jodie Harrison
Mr Dugald Saunders

The ACTING CHAIR: Good morning, and welcome to the 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. Before we commence, I acknowledge the Gadigal people who are the traditional custodians of the land on which we meet at Parliament. I also pay my respects to the Elders past and present of the Eora nation, and extend my respects to Aboriginal and Torres Strait Islander people who either are present or viewing the proceedings online. I declare the hearing open.

EMILY BACKHOUSE, 2019 Chairperson, Youth Advisory Council, Office of the Advocate for Children and Young People, affirmed and examined

MARVIN SMITH, Member, Youth Advisory Council, Office of the Advocate for Children and Young People, affirmed and examined

ZOE ROBINSON, Advocate for Children and Young People, Office of the Advocate for Children and Young People, affirmed and examined

UNA O'NEILL, Director, Office of the Advocate for Children and Young People, affirmed and examined

JULIE CHARLTON, 2020 Chairperson, Youth Advisory Council, Office of the Advocate for Children and Young People, affirmed and examined

The ACTING CHAIR: Thank you for appearing before the Committee today to give evidence. Will you confirm that you have been issued with information about the standing orders that relate to the examination of witnesses?

Ms ROBINSON: We have.

The ACTING CHAIR: Do you have any questions with regard to those standing orders?

Ms ROBINSON: I do not have any questions.

The ACTING CHAIR: We have a video to show as part of your opening statement.

Video played.

The ACTING CHAIR: Thank you for that video. Ms Robinson, would you like to make an opening statement further to that video?

Ms ROBINSON: Yes, please. I, too, acknowledge that we meet on the lands of the traditional owners, the Gadigal people of the Eora nation, and pay my respects to Elders past and present and those of the future—and my Aboriginal colleagues with me today as well. I acknowledge, today, the young people amongst us and I acknowledge the Committee for inviting young people to be here today. That is an incredible thing to have done, and to welcome so many young people at a hearing like this is great. I do acknowledge that. I acknowledge Ms Julie Charlton, Mr Marvin Smith, and Emily Backhouse.

I feel very honoured to have been appointed as the Advocate for Children and Young People [ACYP]. I am proud and cherish the opportunity to continue to elevate the voices of children and young people in New South Wales. I note that in my role as Advocate, some of what we discuss today will fall outside my time with the office. I thank the Committee for acknowledging this and will endeavour to address your questions to the best of my knowledge.

Firstly, I take this opportunity to thank the thousands of children and young people in New South Wales who continue to generously give their time to provide feedback. To date, ACYP has heard back from 12,000 children and young people, face-to-face, out of a combined total of 36,000 children and young people over the past five years. In accordance with our mandate, ACYP has heard directly from children and young people from diverse backgrounds and life experiences on a broad range of topic areas. Specific consultations were undertaken with children and young people who have experienced disaster, refugees and asylum seekers, Aboriginal children and young people, those living in regional New South Wales, and those in juvenile justice centres and out-of-home care. We continued with our ongoing work of hearing from children and young people on areas including education, mental health, wellbeing, homelessness, employment rights, safety, violence, diversity, discrimination, life skills, digital use and general attitudes.

Some of the major issues and recommendations we heard from children and young people, during many consultations, included: the need to systematise children's and young people's voices in decision-making processes; an increase in life skills programs; better transitions out of care; access to Aboriginal owned and controlled organisations; government services to be more accessible; and needing places to go when they are

suspended; assistance in navigating the system; the importance of voice in schools; as well as training and knowledge in human and child rights. I also take this opportunity to thank the many individual organisations that continue to assist us in ensuring the children and young people of New South Wales have a voice in their community.

I express my gratitude to the members of the NSW Youth Advisory Council [YAC]. Their advice to our office and me, and to the Government of New South Wales, has been invaluable. I acknowledge the work of the previous parliamentary joint committee on children and young people, and the current Committee, for taking the time to meet with us today. I extend my gratitude to our related Ministers: New South Wales Minister for Mental Health, Regional Youth and Women, the Hon. Bronwyn Taylor, and Minister for Families, Communities and Disability Services, the Hon. Gareth Ward. I finally thank and acknowledge the staff of ACYP, who are always committed to ensuring that as many children and young people as possible, across New South Wales, are given the opportunity to engage with us and have their voices heard.

The ACTING CHAIR: Thank you. Would anyone else like to make an opening statement? Okay.

Mr DUGALD SAUNDERS: Welcome, everyone, and thanks to the members of the Youth Advisory Council for being here. I know it is probably feeling a bit daunting for the three of you today, but it is really good to have you here and I think it is a unique opportunity. Let us start off with how this year feels different to last year, and what opportunities as a YAC you are hoping to achieve. I do not know who to address that to specifically, but feel free to jump in—maybe starting with you, Ms Charlton.

Ms CHARLTON: Yes, I will start. This year has been very unique due to COVID. We started off with our recruitment process having to be online, which was very different to what we are used to because it used to be held here in the Strangers' Room. Our first three or four meetings were online, which definitely closed off the options for what we could do. However, we were able to adapt, and look at what other ways we can involve the children and young people of the council, in order to get their voices heard and have their communities' issues looked at.

One really amazing opportunity that came from being online was speaking with Her Excellency, the Governor of New South Wales. We had a Zoom meeting with her and that was very good for our council, because they were able to comfortably sit down with Her Excellency and ask her questions in a relaxed format, rather than being confronted with the formal aspects of being at Government House or any other formal area. Some other areas, that are really helped by being online, were some of the discussions that we were able to have. At first, it was quite daunting; they did not want to talk over each other. But they slowly got into the flow of being able to read and bounce off each other comfortably—which you can easily do in a personal, in-person format. But they were very easily adaptable and it was really good for them.

Mr DUGALD SAUNDERS: Yes. Ms Backhouse or Mr Smith, we think of you as digital natives. Some of us older people struggle. But is it something that you see as part of what you need to do as a committee going forward—adapting and using that technology?

Mr SMITH: I definitely agree with that aspect. I find the youth, as well, are more adapted to going to an online environment. Definitely, the mixture between online and in person was beneficial for youth, because we spend such a large amount of time online. In terms of 2020, and 2021, actually, the challenges faced by the pandemic was—to understate it—quite challenging for the youth. I found that whilst the opportunities we had in meeting in person were minimised, our capacity as a YAC to represent the voices of the youth was able to be maintained throughout that process. Even though we had to go to an online format utilising Zoom, I found that we were still able to voice our concerns and our opinions, especially for such consultations as the UN, when they came to us and consulted about education for the youth, and as well the Department of Education, and also the meeting with Her Excellency. I found that, I think, moving forward, definitely the online aspect would have a very beneficial impact on the youth.

Mr DUGALD SAUNDERS: Ms Backhouse, do you feel like the Council is working as intended, and providing the sort of feedback that you think is important to the Ministers, for example?

Ms BACKHOUSE: Definitely. Being young people, we are so adaptable to our environment and our situations. I think the way that the ACYP and the YAC have handled that transition has definitely influenced—but, actually, in some way it has improved our communication and our outreach, which is definitely something that we should be able to carry on, with the form of the way that the world is now.

Ms ROBINSON: Perhaps if I can add, one of the benefits is—we had a gentleman from Broken Hill, so with the borders and the changes that could happen quite quickly, if there was an impact on him, he could still participate. So, being able to make sure the forums worked in both fashions was very helpful for that.

Ms BACKHOUSE: Yes.

Ms JODIE HARRISON: Thank you all for coming today, and thank you for your work as the Advocate and the work of the office of the Advocate, and I especially thank the YAC members. Given the challenges of the past 12 months and needing to consult through digital means, I am interested in whether there have been any areas where it has been difficult to access children and young people, because of a lack of access to technology. We have heard, in some of our schools, that some children were not able to participate through the digital forum, because they did not have the digital technology, they could not afford it. I am after feedback from the Advocate about that.

Ms ROBINSON: Thank you for the question, because we did appreciate how, during that period, we had to quickly go from being in schools to not being in schools, and how, beyond our office, everyone had to adjust to ensure there was equity in terms of access. There are learnings that we can all have in terms of how that happened. For us, the consultations that we would usually do face-to-face obviously could not happen. So then we looked at what the alternatives were. We did a number of polls during COVID. We shifted some investment so we could do some regular polling. We also had the technology platform that was Bang the Table. What we did, instead, was be connected to services. So, those services that were still able to serve and support children and young people, we made sure that we were reaching out to them to receive information from them directly.

It would be wrong to sit here and say that it was not difficult for us, in terms of face-to-face consultations. Whilst we went online, we recognised that was not easy for everyone. Having the Youth Advisory Council and representatives from across New South Wales—in Lismore, in Broken Hill and in the rural and regional areas—meant that we could be connected to them and ask what was going on in their communities and learn from them. The ongoing learning from that is the need to have varieties of ways of doing things. But being connected to services and other leaders in community meant that we could still reach some of that information and still gain some insights, and the polling assisted us as well.

Ms JODIE HARRISON: I am also interested in the Regional Youth Taskforce, and how that interacts with your work and the work of the Youth Advisory Council. What is the nexus between the Youth Advisory Council and the Regional Youth Taskforce?

Ms ROBINSON: I work very closely with the Regional Youth Taskforce, and I am supportive of the work that they are doing. I have attended all of their meetings, in both a facilitation capacity and a learning capacity. In terms of the Youth Advisory Council and their role in the initial stages, obviously, when they were being set up we assisted with what recruitment looks like and how that can happen. We also provide some media and advocacy training for the Regional Youth Taskforce. For us, the more voices and the more councils that exist that bring children and young people to the fore is a great thing, so we look forward to continuing to support their work. Obviously, our Youth Advisory Council has metro and rural and regional, so we do have that coverage. In terms of issues that are being raised by both councils, there are similar themes. Again, the more that we are hearing from children and young people, the better that is. I definitely think that, in terms of regional areas, there are incredible nuances and differences, so the ability to bring that information to light is important. I know that our Youth Advisory Council have said that they would like more interaction with the Regional Youth Taskforce, as well, moving forward.

Ms JODIE HARRISON: For them to understand the tyranny of distance.

Ms ROBINSON: Yes.

The Hon. GREG DONNELLY: Thank you all for coming along today. My first line of questioning arises from questions I raised at the last hearing and from correspondence with the Advocate. I have three documents to hand out. With the indulgence of the Chair, I will need to explain the chronology of these as a refresher for the Advocate. It is a matter I have particular concern about, and have been corresponding with a number of people about, including medical experts. It is a development that has occurred over the past five or so years, and is continuing to exercise the minds of many people. It is the matter to do with the issue of children and young people experiencing gender dysphoria. Maybe, I will have to go through the documents to set them up, and then we will have to switch to another member and then come back to me. But I will set up the documents in the first place, so we understand the chronology.

The first document is correspondence to yourself, the Advocate, dated 20 April last year. The second document is your response, just so you are clear. I understand this is a period of you transitioning into the new role, so there is no criticism being directed at you. I did not hear from you from the 20 April correspondence, so I resent the exact same correspondence on 19 June last year—the exact same letter—and 11 September is your response. I will come to the third document, in a moment, which involves an exchange of emails between myself, the secretariat and the office of the children's advocate, but I will deal with that later.

The first two documents are the ones I want to particularly refer to. I will summarise them. The document from 20 April outlines the developments in Australia, across all the States and Territories, that have what is called a gender clinic. They are all there in the tables for one to see. The last page and the second last page provide a summary of the information on the preceding pages. It brings you up to date—at least, at the time that this was corresponded to you—about very serious concerns that exist over the fact that the numbers have, quite frankly, increased significantly in recent years. The three-stage process of treatment involves the blocking of hormones in the first instance from the development of one's natal sex to the cross-sex hormone treatment, which is obviously the provision of the sex the individual is looking to transition to. Then, ultimately, the third stage is profoundly significant treatments. It goes without saying that the surgery is irreversible. It is typically undertaken at 18, or it is starting to emerge even earlier, in some instances.

The cross-sex hormones and what are called the puberty blocker stages—it now appears, from the best medical evidence that is available in Australia and around the world, that the claims made originally that they are reversible procedures are, in fact, just not right. If they become inducted into the programs and move through the puberty blockers then that is not reversible, particularly, with respect to the brain development of what is the maturing young person. With respect to the cross-sex hormones, that really concretises the first stage and that is not reversible either. We are finding a situation where once in the program and progressing through it, what has been said hitherto is not right.

We are, potentially, then finding that what is ultimately happening is young people going through this procedure and then, increasingly, large numbers of what are called detransitioners: young people now not young, in their twenties and thirties, having deep and profound regrets about having gone through the three-stage procedure. The three-stage procedure is what, typically, is applied in the gender clinics around Australia. As you know very well, in New South Wales we have a gender clinic at Westmead Hospital, which forms part of the Sydney Children's Hospital Network. I expressed the concerns in that piece of correspondence. As I said, it was followed up and your response back was on 11 September. Have you had a chance to read that? I will get you to refresh your memory, if you cannot remember that.

Ms ROBINSON: That is fine; I have refreshed.

The Hon. GREG DONNELLY: I specifically take you to the third paragraph and the fourth paragraph. In your third paragraph, you say:

In the work that has been done by our office to date, children and young people have not raised gender dysphoria as an issue. We have also not conducted any specific consultations with children and young people around this topic.

My first question to you is: since we had our last meeting to review the report of the children's advocate, which obviously deals in part with the health and wellbeing of children and young people—that is not insignificant in any way at all and, indeed, is touched on in the report—has the Advocate or the Advocate's office done any work with children and young people discussing this matter, in either raising it with them or them raising it with you? That is my first question.

Ms ROBINSON: Thank you. There is a lot in that. Firstly, I acknowledge the material that you sent me, and obviously in the letter I acknowledge the delay in the response.

The Hon. GREG DONNELLY: I am not taking a political point on that.

Ms ROBINSON: I understand. You may be familiar with the submission that we made in response to the education amendment bill that had been put out. In that consultation, we spoke to 44 children and young people in both a metro setting and in a regional setting around the issues that were contained in that bill. One of those issues is gender fluidity. In terms of a specific consultation—that was about that bill but, as you can imagine, with the contents of that bill the topic did come up. In terms of what is in the response here, I would say that children and young people in those consultations—acknowledging that it was qualitative and it was a limited number, in a short space of time—did again talk about the need for safe and inclusive environments, and conversations that they could have where they might need to have a conversation about how they are feeling and their gender. The other thing I would acknowledge is that the end of this year, and I cannot yet commit to a time but it is on our schedule, we are doing a wider consultation with the LGBTIQI community. I imagine that a number of issues will come up and I am certain that, depending on what happens with that report, that is something that we could share with this Committee as well.

The Hon. GREG DONNELLY: So your evidence to this Committee is that, in the context of dealing with that bill—and I am not associated with it other than being a member of the Council, where the bill is being examined—

Ms ROBINSON: If it is helpful, we can provide a copy of our submission to this Committee as well.

The Hon. GREG DONNELLY: Thank you for the offer, but I think we can get that on the inquiry website. That is helpful to know in terms of that discussion with children and young people. Were you involved in those discussions, or was it someone else within the advocate's office? Who conducted them?

Ms ROBINSON: I attended the metro consultation and the participation team, which is the team that does our face-to-face consultations, did both the regional and metro. But I was present at the metro.

The Hon. GREG DONNELLY: What were the themes, points, narratives or comments made by the children and young people who discussed this matter? Can you summarise it?

Ms ROBINSON: Let me be clear that, in terms of gender dysphoria, that was not a topic raised. But they did talk about the fact that children and young people need safe, inclusive spaces, and that there may be a variety of issues that children and young people are facing. When talking about the school environment, the ability or the inability to have those conversations with teachers or school counsellors would be something that they found very detrimental. They talked about the need to have informed adults, or informed people, around them to support them. I am not certain that I will use the appropriate language here, but when you are talking about exploring identity or gender, the children and young people said that they think that school should still be a safe place to do that.

The Hon. GREG DONNELLY: Is your evidence to the Committee that you engaged in discussions with children and young people about this, and it inherently dealt with the matter of gender fluidity because that was the matter discussed, but you did not talk about what is in fact the medical context of this—which is gender dysphoria? Is that your evidence?

Ms ROBINSON: That is my evidence, because children and young people speak the truth, according to children and young people and what matters to them. It would be unfair for me to say that they were talking directly about gender dysphoria. What they were talking about is the impacts of a bill around gender fluidity that was no longer—not that it is being taught, but that it was something that could no longer be discussed in a school context with school counsellors or teachers. It would be wrong for me to say that they are specifically talking about gender dysphoria. I can say that the office has not done consultations, specifically, about gender dysphoria.

The Hon. GREG DONNELLY: But you do understand that gender fluidity, in large measure, is gender dysphoria. You understand that, do you not?

Ms ROBINSON: I understand that children and young people have moments in their lives, and times in their lives, where they need an opportunity to explore and have conversations about how they are feeling. I do not profess to be an expert in this. I listen to children and young people around it, and children and young people say that they want a safe, inclusive space.

The Hon. GREG DONNELLY: That point is not being contested.

Ms ROBINSON: Sure.

The Hon. GREG DONNELLY: I have a lot more questions to ask, but is my time up?

The ACTING CHAIR: No. Does anyone else have any questions about this topic?

Ms JODIE HARRISON: About this topic? No.

Mr DUGALD SAUNDERS: No. I am fine, thanks.

The Hon. GREG DONNELLY: In the same paragraph, the third paragraph, you say:

We have also not conducted any specific consultations with children and young people around this topic.

That is fine at the time, but you have clarified the position now. Taking it into the next paragraph:

From the conversations I have had to date, and on reading the material—

When you say "reading the material", what material are you talking about there?

Ms ROBINSON: The material you provided to me.

The Hon. GREG DONNELLY: Which is, presumably, my correspondence. Was there any other material—

Ms JODIE HARRISON: I do have other questions, though. I would actually like the ability to ask other questions in relation to the report.

The ACTING CHAIR: We will finish off this question and then we will move to some other questions.

The Hon. GREG DONNELLY: Sure. If we have to, the best thing is to clock the time and share the time. There are three of us here; four, including the Chair. We are here until 11 o'clock and I have a whole lot of information to go through. I am happy to be in your hands.

The ACTING CHAIR: We will finish this question and then we will move on to some other questions. If there is time, then we can come back.

The Hon. GREG DONNELLY: I ask, then, that we divvy the time up. There is basically 50 minutes left, and I insist on having my portion of the time to pass through this information, and have a discussion.

Mr DUGALD SAUNDERS: I think it is fair to say you have had a fair share of the time already, Greg.

The Hon. GREG DONNELLY: No, I am saying this is an inquiry and it is obviously an opportunity to speak to the Advocate. I still have much to cover in this respect.

Mr DUGALD SAUNDERS: Let us keep rolling.

The Hon. GREG DONNELLY: I will not be cut short. If the wise way to proceed is to ensure that we have the time divided by three, which takes us through to 11 o'clock, that is what I would insist on.

Ms ROBINSON: Can I interject? Sorry, Chair, if you do not mind.

The ACTING CHAIR: Yes.

Ms ROBINSON: I am happy, and I understand your line of questioning. It might be appropriate, though, for this line of questioning—it is quite a sensitive issue for members of our YAC, and so I do not know whether you would be comfortable excusing some of the young people, and perhaps we can save this line of questioning to the end. But it is quite a sensitive issue.

The Hon. GREG DONNELLY: It is a matter for the Chair and the Committee members in consultation with themselves. It is a sensitive issue, but a significant one, given the irreversibility of the procedure and its potential impact on children and young people. That is why it is being discussed.

The ACTING CHAIR: We will move to further questions, but I will ensure that you have time to ask those questions. If the youth that are here would like to be excused, they can be excused. Otherwise, they are welcome to stay as well.

Ms JODIE HARRISON: In your answer to the questions on notice, in relation to feedback from agencies on the *Children and Young People's Experience of Disaster Report*, you indicated you would be happy to provide further information to the Committee in confidence. That may not be able to be done right now. Are there any challenges that the Advocate is having, in relation to resourcing currently available to it?

Ms ROBINSON: So, as always, we operate within the funding envelope that we are given. We have managed to—obviously in the last year and even this year—progress some incredible pieces of work, like the disaster piece of work and the disability consultation, and also in terms of our investment in the Digital Lunch Break, and other things that we did. We continued to deliver, I think, amazing work for the benefit of children and young people across New South Wales, within the funding envelope that we have. We are also very aware of the fiscal constraints that exist currently. We do what we can, and I think that we do it very well, but we acknowledge that there are fiscal constraints in New South Wales. But we feel like we are resourced and can deliver the work within our funding envelope.

Mr DUGALD SAUNDERS: Maybe it is worth asking the young people. Ms Backhouse, Mr Smith and Ms Charlton, given that you have been involved for a couple of years, are there things that you think—and maybe it is not a monetary thing, but are there things that you have talked about and thought about? Are there things that you really want, or have identified that, in the future, might make a difference to you, but also to the way you can feed back? Don't be shy.

Ms ROBINSON: Don't be shy.

Ms BACKHOUSE: Speaking on behalf of my own opinion, I think the Advocate and the ACYP do brilliant, amazing work. But, like every other organisation and agency, we definitely can benefit from other things. From my standpoint, they are doing amazing work. I do not think they can be crucified in any way.

Mr DUGALD SAUNDERS: I think we talked about the connection between the Regional Youth Taskforce, as well.

Ms BACKHOUSE: Yes.

Mr DUGALD SAUNDERS: Is there an opportunity or an option for, say, people who have been involved, like you, to remain as mentors into the future? For this one, but also the Regional Youth Taskforce. Having people who are part of the year before's group, helping the next year's group; do you see that as being of benefit?

Ms CHARLTON: I was actually a member of the 2019 Youth Advisory Council, and then the Advocate chose me to be the Chair of the 2020 council. I was rolled over to the next year, so that the flow of the work would not be lost on the next council. A lot of the work that we do rolls over to the next year. It was easier for me to know everything that we had done the year previously that would be rolling over, so I could explain it easily to the council, and we were able to continue/finish the work.

Mr DUGALD SAUNDERS: So, it was good, then?

Ms CHARLTON: It was very good for me to be able to do that, and I see a benefit in that being used in the future.

Mr DUGALD SAUNDERS: What about fitting it into your schedules? Mr Smith, how does it fit in with your life?

Mr SMITH: That is a very good question. I actually worked three jobs during university studies. I found the casual way we met once a month was enough, so that it was not overwhelming to fit within the schedule of a young person. Can I move back to your question on mentorship? I would consider Ms Charlton as my mentor throughout my time during 2020 and 2021. She took very great steps in introducing all of us and creating a group chat, using online forums to keep us connected and briefing us on what was expected, what was happening in the youth, and also being a point where we could ask questions without feeling judged. In terms of mentorship, I definitely see an absolute benefit in continuing that with future youths. Again, as Ms Charlton did state, a lot of things can be lost without that mentorship program in place. Definitely, there is a lot of value in that.

Mr DUGALD SAUNDERS: Is there any reason that would not continue to happen, Ms Robinson?

Ms ROBINSON: Absolutely not. We say to our Youth Advisory Council that they are always friends of the office. If people want opportunities to come back and assist the office with work or any particular circumstances, they are all very welcome to. It should be known that Ms Backhouse is currently working with our office in and around a specific project. For the Youth Advisory Council, she is one of those precious children in terms of being on the Youth Advisory Council, going off and doing her own work, and now coming back to assist us with a specific project.

The ACTING CHAIR: I have a question around the pilot SHiFT program, the anti-bullying program. I would like to know the results of that pilot and how it went, what the lessons learned from that pilot were and potentially what best practice for dealing with bullying looks like.

Ms ROBINSON: I may have to unfortunately—sorry.

Ms JODIE HARRISON: Could we go back to getting an explanation as to what the SHiFT program was, and expand on it, too?

The ACTING CHAIR: Sure, okay.

Ms JODIE HARRISON: I think that would be useful.

The ACTING CHAIR: Could we get some information about the pilot and how it operates?

Ms ROBINSON: I am going to have to apologise, I think this is one that was before my time, so I may have to take that on notice. Bullying—in terms of a different issue—I am happy with; in terms of the details of the SHiFT program, if I could take that on notice, apologies.

The ACTING CHAIR: Okay, absolutely.

Ms ROBINSON: In terms of bullying, broadly as a theme in terms of children and young people, obviously it does still feature as a concern for children and young people. The shift from in-school bullying to cyberbullying is still a key issue. We work with the eSafety Commissioner on a number of the projects that they are doing, and feed them the information and data that we receive around that. But it does still remain a theme for children and young people.

Ms JODIE HARRISON: Is cyberbullying getting worse, from the point of view of what young people are telling you? Or is what we are doing, as governments, improving young people's experience?

Ms ROBINSON: The fact that we are more aware of it, certainly from an adult context and in the government context, means that there is a good focus on that. I think that we are all still learning, and I am sure

the young people around here would say—and they can speak for themselves—that we sometimes get to a point where we have done the programs and we think those programs are good and then something shifts. I applaud the work the eSafety Commissioner does in terms of adapting and working with what is going on. I think that reach—and we all say it: things that follow you from the school playground to your home become incredibly difficult. Obviously, children and young people will talk about the awareness and the learning and the peer-to-peer support around that as well, but I also think there is room to shift, in terms of that, because the environment changes in and of itself. But I am sure the young people will have something to say about online presence.

Ms BACKHOUSE: It is something that is ever growing. No matter how well we do it, there is always going to be that gap. How we bridge that gap, I am not 100 per cent sure. But I think it is really important to acknowledge that children and young people are growing, and so is media and social media and digital technology, so there will always be that gap, no matter how well we are doing something.

Ms ROBINSON: Thank you. In terms of a recent poll that has been provided to me, bullying was the third issue that was raised. Fifty-three per cent of young people talked about that as an issue, and 59 per cent of those were female, aged 12 to 17.

Ms JODIE HARRISON: Are there particular platforms on which cyberbullying happens in a more prevalent way?

Ms BACKHOUSE: Definitely. Obviously there are your general ones: Facebook, Snapchat, the new, up-and-coming TikTok. Those are the more older versions of digital media that young people use. But, I think, more so those new apps that are coming along, that I guess are not so designed by guidelines, and do not actually have those stricter policies and practices in place that actually protect young people. I think those are the ones that shift under the barrier and that we do not necessarily look at, but, again, they are important to look at because those are the ones that we do not often see or recognise as tools of use for online bullying. I think it is just a matter of trying to find that underlay, and where we can pull that back.

Ms ROBINSON: To Emily's point, I think you have got those core social media platforms that we are aware of and know. But certainly—and this has not come up in my professional capacity, but in my personal capacity—there have been websites that have existed that are anonymous and you kind of start a trend, in terms of commenting on people, and issues can roll from that. One of the key things is having people who are acutely aware and monitoring all of the shifts, because when one is closed, often another pops up. The flipside is that children and young people say that they want more information, and they want to understand. Our responsibility, in both our agency and others, is to ensure that we are giving them that information so that they are aware of what is out there, aware of their rights, and aware of the understanding of what they need to be doing to protect themselves.

Mr DUGALD SAUNDERS: In some ways it is interesting, because I think the Attorney General is looking at some new guidelines around social media in general. It would probably be worthwhile engaging with you as a group to find out, because it is very hard to keep up with everything. That is part of the point, isn't it? We can set guidelines around things like Facebook, for example, because we know what it is. But as new things evolve, it is having a voice back in saying, "Have you thought about this one?" That is probably a worthwhile thing to do.

The ACTING CHAIR: I have a couple of questions for the Youth Advisory Council on this. Prior to being elected, I spent 20 years as an IT professional and 15 of those years were in a school system. Over the last 10 years that I was there, I was investigating a lot of, not just cyberbullying incidents, but also other online content that could be dangerous. My question is a very simple one to start and then I have a follow-up. Why do you think youth cannot simply turn off to that?

Ms CHARLTON: I would say because as the youth, social media kind of follows every aspect of our lives. It is the way we communicate with our friends. These days, it is how we do school. It is how we correspond with our work. It is how we learn about the wider community. When we are bombarded with those kinds of negative feedback, it is hard to shut it off, when we still need to use those platforms for our other means. Because I use Facebook for work purposes, I remember when I was being bullied in high school I could not turn off Facebook, because I had to use it for work purposes. And so I was trying to combat that negativity, but also trying to focus on the positivity. It is hard to turn off when it is so involved in our lives.

Ms BACKHOUSE: Following on from Julie, it is that connection-based approach, but it is also the new thing. You go into a school and children can tell you about the new TikTok dances or the new TikTok trends or what have you. It is literally our world; that is how we communicate and that is how we connect. Going on from my point before, it is that there is always something else. Tomorrow there could be some new app, or some new

form of social media, that people want to be involved in. It is pretty much an addiction for children and young people. Social media, digital media and technology is the new big thing, and it is something that will not go away.

The ACTING CHAIR: Thank you, Ms Backhouse. As a follow-up to that point, regardless of the platform, the website, the app or whatever it may be, do you think the principles are still the same?

Ms BACKHOUSE: They should be, but I don't think they are. Every platform has different principles and also different values. Should that be uniform? Yes. Is it, to my knowledge? I am not very good with technology or things like that, so I cannot answer that, but I definitely do think that any form of media or technology needs to be unified to protect our children.

The ACTING CHAIR: Thank you, but what about from the user's perspective? Do you think the principles might be the same, regardless of the platform, in terms of protecting children and young people?

Ms BACKHOUSE: Again, yes, but I don't think in its entirety.

The ACTING CHAIR: Mr Smith, would you like to comment on that?

Mr SMITH: May I please ask if you can clarify those principles that you are mentioning?

The ACTING CHAIR: They are about protecting your own safety around cyberbullying. How do you protect yourself from cyberbullying as users, particularly youth users, who are a large demographic online?

Mr SMITH: In my personal opinion, I definitely find different apps and different technologies that I have used, including Facebook, Instagram and Snapchat, all present their own set of challenges. I have personally found Snapchat to be an increasingly used source for bullying, in my own experience, because of the nature of Snapchat being an image being sent to you and then disappearing. There is no sense of information storage. What you say to someone can disappear, and there is almost little to no proof that it has happened. Increasingly, I found, especially with the people that I engaged with, that such technology can be used to the detriment of the youth.

To go to your point on whether or not—why can't we shut it down? I do believe strongly, in my personal opinion, that technology—especially with the youth today being raised in technology—has become part of daily life. Certainly, in this day and age with the pandemic and everything going online, increasingly we cannot just turn off our phones because we need to continue our education. Education is online now. We need to continue engaging with our own circles and friendship groups. More often than not, all of those things have to be done and the cyberbullying that comes often appears with it. I definitely agree with Emily; it is an addiction. Whether or not it is a positive or negative one would require more research. To say that it is easier to turn it off, I would think is gravely underestimating it.

The ACTING CHAIR: Thank you. I have one last question before I go to Mr Donnelly. I know the eSafety Commissioner provides a number of opportunities for education. Based on your experiences and your previous answers, particularly around cyberbullying, what would you like to see in an education program?

Ms BACKHOUSE: For me, I did quite a lot of this stuff when I was at school. It was quite a few years ago now, but it was always about the what-ifs. So I think it is about transitioning from the imaginary to the real world: these are actually the complications and these are the consequences of these things. I definitely do agree that it needs to transition from the imaginary, to something that can happen, to actually this is what does happen. Because I think we are so caught up in the what-ifs that we actually forget about the real-world consequences of cyberbullying, and also the implications on mental health, and I guess taking that step further. Mental health being an issue for children and young people, so I guess trying to bring that together to ease out cyberbullying. Again, it is one of those things where we have made a lot of good improvement, but there will always be that gap, because not everyone is going to take social media and technology as seriously as they should.

The ACTING CHAIR: Thank you. Ms Charlton?

Ms CHARLTON: Just to bounce off Emily, I believe that if we focus more on youth mental health there will actually be a decline in cyberbullying, because you will be facing the mental strain of the bully and lessening their stress and their worries, which cause them to act out in the way that bullies do. If we raise more help within the mental health space for youth, there will be less victims of bullying and there will be less bullies, because everyone will have their wellbeing taken care of and they will not feel the need to lash out at other people.

Mr SMITH: Just adding on from Julie, I definitely believe that bullying, especially cyberbullying, has a cause and effect, and often cyberbullying is the effect of something that is happening in someone's life who is bullying someone else. I definitely think, in moving forward, there should be an increased focus on mental health because, when we start understanding the repercussions and having lived experiences presenting to people of the detrimental effects of cyberbullying, I think that will be, probably, the most beneficial pathway that we can take in terms of building an awareness of cyberbullying, and understanding its foundation roots in mental health.

Ms BACKHOUSE: I just wanted to add to that. In regards to education, although it is extremely important to educate young people, it is actually about educating families and communities about cyberbullying and the implications of it. I find that a lot of parents do not actually have the control that they should have of children's media, so I think again it is about extending that beyond children and young people to their families and to communities.

The Hon. GREG DONNELLY: Just returning to the letter dated 11 September 2020, at the penultimate paragraph that starts "From the conversations", in the second line it goes on to say:

It is clear that it is an incredibly personal matter—

I do not think anyone contests that—

and one that requires a lot of support, compassion and kindness towards the child or young person, and their family.

I do not think that is contested at all. With respect to support, Advocate, does that include, in your mind, medical support, as well? I am trying to get an understanding of when you say "support", does that, in your mind, include medical support?

Ms ROBINSON: Subject to the child or young person, I think it is whatever support that they need.

The Hon. GREG DONNELLY: It is a matter for the child, is it? That is what your position is?

Ms ROBINSON: What we have said in here, is that it is incredibly personal. It is both the support that a child and family would need in a scenario. That is arranging a variety of support, I am sure.

The Hon. GREG DONNELLY: Then in the last paragraph—and then I will move onto the next document—second line, you say, and this is your role, "to ensure that they are heard around the issues that matter to them." That is the comment you make there. Just so I am clear, in the role that you have, when engaging on matters like this issue—and I am talking specifically about gender fluidity, which is part of the matter of gender dysphoria—you listen to what is being said. What happens if something is said which is just not accurate or correct, in terms of statements being made?

Ms ROBINSON: In terms of when children and young people make statements?

The Hon. GREG DONNELLY: Yes, as a matter of medical science or fact that we understand something. If it does get said, do you see it as the role of yourself, and/or those who might be delegated to conduct the sort of discussions and consultations with young people, to actually pause and talk and correct that, or to just essentially take it on board?

Ms ROBINSON: As you can appreciate, our office does not have medical practitioners. We do have social workers and psychologists who are all very well trained. Our role is to represent the voice of children and young people, and it is their truth. So, if a child or young person is communicating to us, whilst acknowledging that we have roles, in terms of being both mandatory reporters and making sure it is in the best interests of the child and their wellbeing, it is their truth. I would say that it is not my role as an adult to question or correct that, but it is their truth.

The Hon. GREG DONNELLY: I am not asking you as an adult. I am asking in your capacity as the New South Wales children's advocate, if in discussions with children and young people a matter is raised and expressed that is not correct—in fact, scientifically inaccurate—do you or the person you delegate to do the consultation raise that point with them, or just simply note what they are saying as, to use your words, the child's truth?

Ms ROBINSON: Our role is to represent the children and young people. What they say to us is their truth, and our job is to respect that truth and value their truth. If we need to work with a community or school in terms of the mandatory reporting obligations, of course we respect the best interests of the child and their welfare. But I would not expect my team to question a child or young person, because our role, as an office and as the Advocate for Children and Young People, is to respect and value the voice of children and young people and their truth.

The Hon. GREG DONNELLY: As the New South Wales children's advocate, if you—not your team, specifically you—are involved in consultation with children and young people—and I believe that you were part of the consultation on this matter, I think you said it was in regard to the Sydney meeting or the Sydney gathering—if a matter is raised which is not correct and is inaccurate, you do not believe you have a role in correcting that, but rather to simply receive that as the child's truth. Is that your evidence?

Ms ROBINSON: I will go back to the beginning. I am not a medical practitioner. My role as the New South Wales Advocate for Children and Young People is to act in the best interests of those children and to

bring their voice into government. I would feel very uncomfortable if a child was in front of me and sharing their truth that I, as a non-medical practitioner and who does not have experience of this, did anything other than have a human response and comfort them, and care for them, in that moment.

The Hon. GREG DONNELLY: What is a child's truth?

Ms ROBINSON: It is what they tell us. When we are asking them questions about what matters to them and what is important to them, it is their response to that. When we talk about disaster, it is when they say that they are fearful of helicopters, because they think of the bushfires. When they say that they struggle with the sound of sirens—it is their opportunity to share what matters to them, and how they feel about certain issues. My role is not to question that but is to listen to that, and to collect data around it, and then present that information to government.

The Hon. GREG DONNELLY: So your evidence today is that a child's truth, as you understand it, is how they feel on a matter? Is that your evidence?

Ms ROBINSON: It is how they feel, it is the information that they share, and it is their experience.

The Hon. GREG DONNELLY: That is the child's truth, as you understand?

Ms ROBINSON: Yes.

The Hon. GREG DONNELLY: The third document—this is just to complete the continuity of the discussion, so that it is all understood. I take you to the very last page. This involves correspondence between myself, essentially the committee secretariat, and back to you, Advocate, and your office. Specifically, the last page deals with questions on notice arising from the last hearing. Once again, I understand about the transition time and that you were not in the seat, so to speak, with respect to some of the matters that are raised here. I just quickly draw to your attention—because it came out of the evidence and this is the answer to my question on notice—about the Australian and New Zealand Children's Commissioners and Guardians [ANZCCG] meeting in May 2019.

That obviously is a time that precedes your role as being appointed as the New South Wales children's advocate. It refers to a meeting that took place down in the Australian Capital Territory [ACT]. Why we know it is the ACT, I will come to in a moment. There is a supplementary question which is part of what we have been discussing. Once again it refers to the meeting in May titled, "Supporting intersex, trans and gender diverse children and young people", and makes reference to an organisation in the ACT called "A Gender Agenda". On the next page I specifically asked:

If the matter has not been discussed—

this is the matter of gender dysphoria—

have you placed on the agenda for the next meeting of the ANZCCG the matters of the significant increase in the number of children and young people in the period 2014 to 2019 experiencing gender dysphoria who are undertaking puberty blocker treatment in New South Wales?

You state:

As requested by the Parliamentary Committee, I raised placing the topic on the agenda of the next ANZCCG meeting with the NSW Children's Guardian, who was convening the next meeting of the ANZCCG. This meeting was cancelled due to COVID-19 Public Health Orders.

Can you give me an update? The meeting was cancelled, which we understand, but has there been a subsequent meeting since the cancellation of the last one?

Ms ROBINSON: Yes.

The Hon. GREG DONNELLY: Was this matter that I raised, and sought to have placed on the agenda, raised by you with the NSW Office of the Children's Guardian to have it placed on the agenda?

Ms ROBINSON: It was raised. Other members of the ANZCCG had also received the correspondence from you.

The Hon. GREG DONNELLY: Indeed, I wrote to all of them.

Ms ROBINSON: Yes. We acknowledged that correspondence, and I informed them that I was providing a response to you. It has not been on the agenda since that original meeting. I cannot remember the date of that, but I am happy to take that on notice.

The Hon. GREG DONNELLY: That is the meeting after the cancellation of the meeting that is referred to in the documentation. I have one final question. Turn over one page and go to the bottom of that page as it is

an email thread. I am referring to an email directed to Leon, a member of the secretariat, dated 19 June 2020. The email states, "I hope this email finds you well." Michael Shaw, Director of the Office of the Advocate for Children and Young People, goes on to explain what transpired back in May 2019. With respect to the meeting that took place in May 2019, presumably, you saw the email that Mr Shaw sent to me via Leon. Is that correct?

Ms ROBINSON: I was cc'd into the email.

The Hon. GREG DONNELLY: Were you involved in having discussions with Mr Shaw, in regard to the content of the email?

Ms ROBINSON: I cannot recall, but I imagine so. We work very closely together with the director.

The Hon. GREG DONNELLY: What would you have discussed?

Ms ROBINSON: I cannot recall.

The Hon. GREG DONNELLY: Would you like to take it on notice, or do you just not recall?

Ms ROBINSON: I do not recall.

The Hon. GREG DONNELLY: With respect to the meeting that took place in May 2019—which you informed yourself about, by virtue of the fact that you discussed it with Mr Shaw—were you surprised that this significant meeting that involved the children's advocates and guardians from all around Australia and New Zealand, who were looking at the matter of children and adolescent gender dysphoria, were only informed about the subject matter by a small NGO, based in Canberra, called A Gender Agenda?

Ms ROBINSON: I cannot speak to how they came to be at that meeting in May 2019. I am sure that research was done as to someone coming to present, but I cannot speak to the contents of that meeting, or how that meeting was formed and why they were there.

The Hon. GREG DONNELLY: On notice, I ask you to find out for me why no medical experts were invited to participate in the briefing and consultation of all of the children's advocates and guardians, from around Australia and New Zealand, at that meeting? Why were medical experts not invited to participate in the briefing?

Ms ROBINSON: I can take that on notice.

Ms JODIE HARRISON: When we were talking about cyberbullying a little earlier, one of the things that Youth Advisory Council members in particular talked about was the need for additional resources for mental health support for young people. What kinds of resources are you talking about there? Are there any geographic areas where we might need to place a particular focus?

Ms CHARLTON: Yes. Particularly with the current Youth Advisory Council, we have spoken a lot about the need for mental health resources in rural and regional areas, because they are quite lacking in those resources and being able to access things—even through their schools and local communities. I know that some of the advisory council works closely with headspace, but they are metro. They would like to see more partnerships with mental health organisations, such as headspace, to be able to spread out that reach of mental health resources for youth. Those were some of the things that we particularly spoke about, in terms of mental health. We definitely spoke about pushing it out to rural and regional areas.

Ms JODIE HARRISON: What about in schools?

Ms CHARLTON: Schools would definitely benefit from that as long as they have the appropriate resources and knowledge to do so for a wide range of topics, such as disability or LGBTQ youth.

Ms ROBINSON: If it is helpful, we have recently done some polling around where children and young people would go for mental health support. They talked about counsellors but not in school. They talked about their parents, online, friends and then your GP, if you were accessible to your GP. It is probably a good opportunity to acknowledge the investment that has been made, in terms of putting nurses and mental health nurses in schools. That has been something that has had a positive impact, especially in rural and regional areas that do not necessarily have access to a number of services.

Mr DUGALD SAUNDERS: I wish to pick up on that specific issue. You raised the polling that shows that children often do not want to do it at school. Is the feeling that that specific nurse—which is what I think the Government is trying to do, in that space—is someone who does not identify as a counsellor? It can be a difficult thing for kids to have it known that they have gone to see the counsellor, whereas if it is a nurse that can be across a few things. Does that feel like it will work better from a young person's perspective?

Ms CHARLTON: Again, from the Youth Advisory Council's perspective, they found it really difficult to use school-based mental health services because a lot of schools require parental consent for them to be able to

visit the counsellor. I know my school did, and I know that a couple of the Youth Advisory Council members had to ask their parents to be able to use it. That was really difficult for them, because they faced issues at home which made it very difficult for them to be able to ask. If the nurse, per se, did not have that consent placed in the rules, that would be quite easy for youth to be able to visit. But it is that consent issue with the parents that stops youth from being able to visit the counsellors.

Mr DUGALD SAUNDERS: How does that look from your perspective, Ms Robinson? In getting consent, is there a way of that working for everyone?

Ms ROBINSON: If I come back to what you originally asked, when we did some polling and consultation, children and young people said that one of the reasons that they struggle with school counsellors is they do not feel like the school counsellor is there for them. They are employed by the school, and they have to report back to a principal, or to parents. In terms of having a variety of services that they can access—that they feel are there for them—if you are investing in that, I think it is a good investment, as long as they feel like that. In terms of the consent issue, I know that there are various conversations now, about various forms of consent and what is going on. If you are unable to access something, because accessing it as a young person has become very difficult, that is only going to lead to spiralling and can lead to seeking information from different sources. You want to make sure that we are trying to make it as safe as possible for youth to get that information from a trusted adult.

Children and young people do talk about needing to have 24/7 access, in terms of mental health support. We need to make sure that we are investing into what that looks like. They also talk about the need to have online access to that as well, so making sure that if there is an online source, that it is a reputable source with trusted advisers on the other end of it. I think we have to be conscious of the fact that, if we are making it difficult, they might go to different sources. We want to make sure that, where they are going, there are a lot of reputable sources that can support children and young people.

Mr DUGALD SAUNDERS: You mentioned headspace. There are headspace centres in regional areas—there is one in Dubbo, for example—but not in these smaller communities. Having outreach from a regional centre to smaller regional centres, where people know that you are not in inner Sydney—you are at Dubbo, when you are talking to someone in Bourke—makes more sense. Does that make more sense from a YAC perspective?

Ms BACKHOUSE: Definitely, and I remember for the 2019 YAC, we actually had a conversation about that reach out of mental health services. Again, those smaller communities are often the most forgotten, and in terms of mental health, we can look at stats, and from my knowledge, and the stats that I have looked at actually show that, in those smaller communities, we are not reaching where we should be reaching, hence the mental health within those communities. Definitely, that extra outreach does not go astray, but I do not think it is something that is done as well as, say, mental health in metro areas.

The ACTING CHAIR: On the comments of consent that Ms Charlton made, is that something that is consistent or inconsistent across government schools or non-government schools?

Ms CHARLTON: Mine was a private school. The other members of the Council that mentioned that were at private schools, and so it seems, from my perspective, that it would be an independent private school issue. However, I will pass it to the Advocate, if she knows more about that.

Ms ROBINSON: In consultations in government schools, I could not say blanketly. I am happy to take it on notice and see if we have anything else. But we have heard more that they want access to counsellors, and for it to be private and confidential and for you to not have to walk down a hallway and make it very clear where you are going. I could not speak to whether I have heard that they have raised that the getting of consent from parents is an issue in a non-government school, but I can take it on notice and check from our data as well.

The Hon. GREG DONNELLY: Ms Robinson, what briefing have you received from the New South Wales Government in regard to the rollout of school nurses and what the specific role of the nurse is, vis-à-vis school counsellors and school chaplains in some schools—and I think that is Commonwealth Government funded—and other people in schools, who might have a role in counselling and talking about issues with children and young people? The reason I ask is that we now have the manifestation of multiple roles. I am not saying that is a bad thing at all, but we have schools nurses and we have school counsellors, and school counsellors preceded school nurses. In some schools we have chaplains, and there could be a fourth category quite separate from teachers. I am interested to understand the demarcation lines, so that we do not have a crossing over of roles. On the briefing you received as the Advocate, with respect to the implementation and the rollout of the program, do you have any feedback as to how it is going, and the explanation given as to what the role of the nurse is?

Ms ROBINSON: Just to clarify are we talking about the Wellbeing and Health In-reach Nurse [WHIN]?

The Hon. GREG DONNELLY: It is colloquially referred to as school nurses.

Mr DUGALD SAUNDERS: You stepped out when we discussed that a little bit through the Advocate, but, yes, those are the nurses I think you are talking about.

The Hon. GREG DONNELLY: Sorry, I am not aware that there are any other nurses in schools, other than the nurses that the Government are rolling out in schools—unless I am wrong.

Ms ROBINSON: Which is the WHIN nurse program. I just want to clarify that we are on the same page.

The Hon. GREG DONNELLY: There is no other program as far as I know.

Ms ROBINSON: Sure. I sit on the WHIN panel. I was asked to sit on the WHIN panel, in terms of the rollout and ensuring that we could bring a layer, in terms of children and young people, and some of the work that we had heard. It is very separate, obviously, to me. Both education and health are taking leadership around this, and have gone through the recruitment process, and I understand that the first round of 50—I will take it on notice, in terms of the detail for you, but the recruitment is going well and the rollout is going well, as I understand it. I sit on the panel, and there are regular meetings on that and we provide any feedback in terms of areas of need that we have heard about. The last part of your question is the detail, in terms of the potential overlap of roles, as you have asked the question.

The Hon. GREG DONNELLY: Sorry, before I get to that part of the question—which was not all parts and I apologise, I did not meant to confuse you—with respect to the rollout, you say that the evidence is that the Government has informed you through the briefings that it has recruited up to 50, or 50, school nurses. When are those nurses going to be placed into schools? Was that explained to you?

Ms ROBINSON: I can take that on notice. I do not want to get that wrong.

The Hon. GREG DONNELLY: Feel free to take it on notice.

Ms ROBINSON: Yes.

The Hon. GREG DONNELLY: With respect to the program, have you been informed how many schools the nurses are going into, in New South Wales? What is the timetable for the placement of them?

Ms ROBINSON: I will take it on notice, just so I make sure I am right, but I understand it was the recruitment of 100 nurses.

The Hon. GREG DONNELLY: Is that 100 nurses across New South Wales public primary and high schools?

Ms ROBINSON: I will take that on notice.

The Hon. GREG DONNELLY: The third part of my question was with respect to the matter of the role of the school nurses. What is the role and function of the school nurses as explained to you by the Government?

Ms ROBINSON: In my understanding of that?

The Hon. GREG DONNELLY: Yes, that is all you can answer to.

Ms ROBINSON: Yes. My understanding of that, is that these nurses are mental health nurses, as well as qualified nurses—

The Hon. GREG DONNELLY: So, they all have mental health qualifications, as you understand?

Ms ROBINSON: I can take that on notice, but I understand that they are able to deal in mental health issues.

The Hon. GREG DONNELLY: Can you also advise, on notice, whether they have mental health qualifications that are attached to their registered nurse qualification?

Ms ROBINSON: I will take that on notice. The part that we said originally, in terms of where I think you might have stepped out, is that the more resources that are given to children and young people in schools to assist them is welcomed. I can appreciate that some schools might have all of those layers that you are talking about, but some schools might not have those layers. The ability to go to another expert, or somebody else who can support you, is something that children and young people would welcome. In terms of the details of that, I am happy to take all of that on notice.

The Hon. GREG DONNELLY: Just so we do not miss anything, my question to you is, with respect to the role of the school nurses, as explained to you by the Government, with briefings I presume from bureaucrats from the Department of Health and the Department of Education, what is that role and function? Did they provide a briefing paper to you in regard to the role and function?

Ms ROBINSON: I will take that on notice.

The Hon. GREG DONNELLY: If you were provided with any documentation, electronic or otherwise, that explains what the role and function of the school nurses is, could you please provide that on notice?

Ms ROBINSON: On notice.

The Hon. GREG DONNELLY: With respect to the briefing that you had with the Government representatives, the health bureaucrats and the education bureaucrats, did you raise the issue of potential overlap, and potential issues, that might arise from overlap between having these different roles inside schools?

Ms ROBINSON: We have provided a number of agencies with the work that we have done, that talks about children and young people—

The Hon. GREG DONNELLY: No, that is not my question. My question is, with respect to the briefings you received from presumably senior bureaucrats from health and education, did you raise with them the matter of potential issues that may arise from having the multiple roles, that I have just gone through?

Ms ROBINSON: We are supportive of the program.

The Hon. GREG DONNELLY: I will ask the question one more time. It is a very specific question. With respect to the briefings you had with senior bureaucrats from the Department of Health and the Department of Education, did you raise with them potential issues that might arise from the overlap of having multiple roles in schools?

Ms ROBINSON: We would not have raised that issue, because we see the benefit in having additional support for children and young people, and we are supportive of the program.

The Hon. GREG DONNELLY: It is not a question about "we", it is a question about "you". Did you raise that?

Ms ROBINSON: No.

The ACTING CHAIR: I thank the witnesses for coming in today. The Committee may wish to ask additional questions in writing. The replies to those will form part of your evidence and will be made public. Would you be happy to provide written reply to any further questions and those on notice?

Ms ROBINSON: Of course.

(The witnesses withdrew.)

(Short adjournment)

SHARMINIE NILES, Director, Legal Services, Office of the Children's Guardian, sworn and examined

JANET SCHORER, Children's Guardian, Office of the Children's Guardian, sworn and examined

STEVE GHOLAB, Director, Working With Children Check, Office of the Children's Guardian, sworn and examined

The ACTING CHAIR: I welcome our next witnesses. Thank you for appearing before the Committee to give evidence. Can you confirm that you have been issued with information about the standing orders that relate to the examination of witnesses?

Ms SCHORER: Yes, we have.

The ACTING CHAIR: Do you have any questions about that information?

Ms SCHORER: No.

The ACTING CHAIR: I will start with the Children's Guardian. Would you like to make any introductory statements before we proceed with questions?

Ms SCHORER: Yes, I would; thank you. I want to start by acknowledging the Gadigal people of the Eora nation, who are the traditional owners of the land we are meeting on today, and pay my respects to Elders past, present and emerging. Thank you for the opportunity to speak to you today. I want to start by recognising that this has been a very big year for the Office of the Children's Guardian, as it has been for many organisations we work with, oversee and regulate to keep children safe. Last year, when I stood before the Committee, few of us knew that we were on the precipice of the pandemic. But, on top of the changes that the pandemic brought on an organisation, the Office of the Children's Guardian has had a year of major change, implementing a new Act, a new strategic plan and new values.

During this time, it was critical that we supported our employees, building on an internal culture of trust and respect. Although this period has been disruptive and stressful, I was reassured and deeply impressed by the strength and adaptability of our employees. Not only did they adjust to the new environment of working with new technologies from home, but they have worked harder than ever to respond to the needs of our community. For many of our employees the lockdown period was extremely difficult. Many have children who needed to be home-schooled while they worked themselves. Some employees live alone and felt very isolated. Others had family overseas in uncertain circumstances, and others had family with chronic illnesses, who they were concerned for.

Throughout this time, we ran wellbeing sessions online for everyone. We ensured that struggling employees had access to mental health services when they needed it. We sent weekly COVID-safe updates to all our staff, and we ran pulse surveys to show how our employees were feeling supported through this period. Our People Matter Employee Survey [PMES] results reflected that this was a period where teams felt they were more connected, with strengthened professional relationships. At the same time, we know that our customers and stakeholders also struggled. In 2020, more than ever, we have been responsive and empathetic. When our frontline workers and carers could not get to a Service NSW centre to renew their Working With Children Checks, the legislation was amended so that those checks could be extended. More than 100,000 Working With Children Checks were extended for six months, which allowed people to continue working while we continuously monitored their checks.

When people could not attend face-to-face training about child safe practice, our training switched to online webinars, with recordings being available afterwards, when our stakeholders needed them. When our out-of-home care agencies needed advice about how to support children and young people, information about COVID-19 restrictions was provided quickly as advice changed, to prioritise the health and safety of vulnerable children, and the people who worked with them. When there were more children exposed to online predators, because they were learning online with reduced adult supervision, we developed resources to help families and organisations keep children safe in online environments. While we have begun to return to work in the office, our work is very different. We have learnt new ways to be more efficient and effective, particularly in how we reach and engage with our stakeholders.

The commencement of the Children's Guardian Act, on 1 March 2020, provided a clear mandate on how we operate a cohesive regulatory and oversight framework to create safe spaces for children and young people in New South Wales. Operationally, the Reportable Conduct Scheme has integrated into the Office the Children's Guardian well. There has been significant engagement with affected sectors, and new comprehensive e-learning developed to support these stakeholders. Following the new Act, we launched our new vision, purpose and values,

which form our new strategic plan. The strategy resets our focus, pulling together new and existing functions, and sets the framework for our organisation to evolve over time.

With new functions, we have navigated new ways of interacting and have updated our information-sharing guidelines. These guidelines set out how we consider confidentiality, privacy and procedural fairness when we share information, about organisations and individuals, between our operating functions. Underpinning these guidelines is that we foster transparency and support collaboration across our directorates, to better coordinate our work to improve the safety of children. We have spent the past year focusing our efforts on building capability in organisations that will come under a proposed Child Safe Scheme. Efforts to implement and prepare organisations for the Child Safe Standards include: the *Guide to the Child Safe Standards*, which has been downloaded more than 10,000 times from our website; a resource that we developed around children's participation and empowerment, in collaboration with the Victorian Commission for Children and Young People; and a guide to developing a child safe code of conduct. Other resources will be developed in the coming year, in line with new legislative requirements. Online training will continue to be our primary focus through eLearning modules and webinars.

Our new strategic plan pledges that we are responsive to what our community wants and needs. Our sector wants services and information that deliver, in a way that reflects their needs. This means making online content accessible, that can be viewed at a time and in a way that is convenient. We have provided a new chat customer service function on our website. We make our eLearning available free. We have communities of practice in key child-related sectors. We have a new app for Working With Children Check details, and we have much more engagement in social media.

At the beginning of 2021, our new Deputy Children's Guardian joined the Office of the Children's Guardian. Richard Weston was appointed as the first Aboriginal Deputy Children's Guardian. This position is identified for an Aboriginal and Torres Strait Islander. Richard is a proud Meriam man, and his appointment represents another opportunity for us to deliver better outcomes for Aboriginal children and communities. His priority is finalising our response to the *Family is Culture* report. I am confident that Richard's contribution to the Office of the Children's Guardian will strengthen the voice of Aboriginal and Torres Strait Islander children and young people in New South Wales.

We have seen a year of stronger oversight and regulation, improved engagement with sectors, and we have developed new learning and capacity to meet the needs of the community. In everything we do to work with stakeholders, we strive to be easy to engage with, act with empathy, and be accountable, so our interactions build our reputation and highlight our commitment to creating child-safe organisations in our state. With that, I would be delighted to answer any questions from the Committee, in relation to my opening statement and the work of the Office of the Children's Guardian. Thank you.

The ACTING CHAIR: Thank you very much. Ms Niles, would you like to make a short opening statement?

Ms NILES: I will just defer to Ms Schorer, thank you.

The ACTING CHAIR: Mr Gholab?

Mr GHOLAB: I will defer to Ms Schorer as well, thank you.

The ACTING CHAIR: I should introduce the Committee. My name is Peter Sidgreaves. I am the member for Camden. We have the Hon. Greg Donnelly, he is an MLC; Jodie Harrison, who is the member for Charlestown; and Dugald Saunders is the member for Dubbo.

Mr DUGALD SAUNDERS: Thank you, Chair. Could I just ask that the other honourable member leave?

The Hon. GREG DONNELLY: Hang on; he is a member of the public.

The Hon. WALT SECORD: I am actually an elected member of Parliament.

Mr DUGALD SAUNDERS: Can we pause things then?

The Hon. GREG DONNELLY: Sorry, do you want to make something of this?

Mr DUGALD SAUNDERS: No, I am just saying, we are trying to start a proceeding.

The ACTING CHAIR: We will continue on the basis that we are covered. Mr Saunders or Ms Harrison, do you have any questions?

Ms JODIE HARRISON: Yes, I do. Thank you for the work you do. In your annual report, you talk about the Children's Guardian working to improve engagement with Aboriginal applicants for Working With Children Checks, who are at risk of non-engagement. You have a Deputy Children's Guardian, and I wonder whether that is part of his role. Are there any other groups that are particularly at risk of non-engagement with Working With Children Checks as well, and what has been done in that space?

Ms SCHORER: Thank you for the question. We have been working particularly to improve our relationship with Aboriginal applicants, particularly in risk assessment, for the Working With Children Check. I think that the *Family is Culture* report would certainly support that, because we know that the experience of Aboriginal people, historically, in the criminal justice system means that there will be findings or criminal offences in their history that skew their representation in a risk assessment. Because it is another assessment process, we acknowledge that going through that is traumatising for people—to have to tell their story multiple times. So what we have done, initially, is we have a First Nations policy statement on our website about our intentions and our understanding of the impact of policing and other impacts of colonisation, if you like, on Aboriginal people, and what that means when we look at their criminal history. We wanted to be up-front about that.

The other work that we have done, and I will ask Mr Gholab to speak to, is providing a cultural lens to the assessment framework that our risk assessors use. We are now moving to a project that is called Your Story. That will be training and equipping risk assessors to engage with Aboriginal applicants in a different way. We have also done a lot of work to acknowledge, as much as we can in the risk assessment process, the protective factor that we know community is for Aboriginal people, and to be able to, with an individual's consent, speak to community Elders or others about their engagement in community life, and know that that is protective. That is the height of the summary.

Certainly, to your other point, Mr Weston will have a role as a senior leader in our organisation, to give his insight into that. But I think, partly, it is my view that it is not only up to him, in the interests of reconciliation, to do the hard work about what we need to do, as an organisation, to do better for Aboriginal people. He will absolutely lead and challenge and guide us, but it is as much my job and Steve's, and all of our staff's job, to think and do differently for Aboriginal people. Steve, do you want to add anything?

Mr GHOLAB: I thank you for the question. As we reported to the Committee last year, over the 2018-19 financial period, we commenced community engagement initiatives across far western New South Wales in a number of communities—namely, Dubbo, Brewarrina and Bourke—to listen and engage with the community, around some of the obstacles and challenges for people engaging the Working With Children Check—whether through the application process or the risk assessment process—and to listen, with the intent of, "How do we improve those opportunities for community?" Through that dialogue, the co-design if I can say, we were informed by the community about what they need in our public documentation, from our brochures. We were also able to dispel a lot of the myths around the community, of why people need a Working With Children Check—their engagement—but also to assist them in the application process. That really helped to clarify a lot of the understandings of the Working With Children Check, but it also made a point of contact at our agency, should the community need someone to speak to and contact and clarify.

Our plan for 2020—but then COVID happened—was to extend those sorts of connections into Hunter-New England and, also, the eastern seaboard, but that has taken a bit of a pause at the moment. From what we have learnt in 2018-19, we have refined our risk assessment process. People who are potentially at the risk assessment stage receive documentation encouraging them to make a phone call, or dial up through a phone and submit the information through that medium, rather than be reliant on documentation, where sometimes literacy might be an issue, or even to seek support from additional community members, or someone they can trust and build a rapport with, to assist in the process, because we acknowledge it can be confronting. To your last comment, around how do we expand the support to broader community members—

Ms JODIE HARRISON: If it is an issue. I do not know whether it is.

Mr GHOLAB: Yes. I guess we wanted to take that community engagement approach, and part of it was to engage with the First Nations communities in those areas that I mentioned. We have a plan—and, again, it was put on pause due to COVID last year—to engage with disability advocacy groups and also culturally and linguistically diverse [CALD] communities, to hear from them and also hear the issues that they are experiencing, if any, and how we can refine our process. Lastly, at the moment, we have translated a lot of the Working With Children Check processes, or what people would experience if they engaged with the Working With Children Check, into the 10 most sought-after languages in New South Wales. They are accessible and available on our website. That is one measure at the moment, but we are hoping to expand that as well.

Mr DUGALD SAUNDERS: Thanks for coming along today. My question is probably a fairly controversial one for you, Ms Schorer. There have been some suggestions that your office, and probably you,

particularly, as the Guardian, has been promoting or helping raise the profile of teaching of gender fluidity within schools, but also to much younger groups. How would you respond to that?

Ms SCHORER: Thanks for the question. I respond in a couple of ways. Firstly, the focus of our role is through the Child Safe Standards. Our role is not to prescribe curricula or what is taught in an individual organisation. I think as the report about Gymnastics Australia highlighted in the last week, my office is still at the basic level of asking, "Has an organisation got good governance, is there a functional code of conduct, are people well trained and are the right people being recruited?" That is where we are interested, and that is where our work is.

We do not prescribe. We do not prescribe particular details of what should happen in any centre or for an age group, for two reasons. Firstly, what we learned from the royal commission—and, I think, what we can read in the report about gymnastics—is that culture is so critical, and that it is about just the primacy of valuing the rights of children at a basic level, so they are not abused. If we are about culture change, I do not want to be in the business of prescribing, because we do not get to prevention; we get to tick-a-box compliance and, "Do what the Guardian says". In my world, that is not good, preventative-based regulation, in terms of the harm we are trying to prevent. So I am not in that business at all. The second reason is, there are 30,000 organisations that work with our children and young people every day. I do not have the manpower to prescribe what they do, to be honest, in every centre on every day. That is not what we are in. We want to set a very basic guideline about how do we honour the diversity of children's experiences and voices, and what is expected of the adults and the organisations who work with them. That is our role.

Mr DUGALD SAUNDERS: There are suggestions that children as young as three have been read books about this type of thing, and that you and your officers have been seen to encourage that. How would you respond to that suggestion?

Ms SCHORER: I think that was a media report. That was not a conversation we had with that particular organisation. That is not how we work. The guide that we have available is public, and it is a guide and exactly that. It does not go to any of the detail of what books should be read. I think that comes from early childhood curricula, and it comes from the own interests of the teachers in a particular centre, but that is not guidance that we specifically gave, or would ever give.

Mr DUGALD SAUNDERS: So you do not necessarily think that is your role—to provide any of that advice, or to have an opinion on that?

Ms SCHORER: No, that is absolutely not our role. We are in the business of the architecture of child rights based organisational culture and leadership, which certainly empowers children to speak up and to be heard, but not to prescribe particular curricula or anything of that nature. Whether that is for three-year-olds or 13-year-olds, that is not our role.

Mr DUGALD SAUNDERS: If somebody comes to you with that sort of problem, how would you see the best way to refer that, then?

Ms SCHORER: In that instance, that is a matter for either an early childhood peak organisation—for the early childhood regulator, for the Department of Education, for the people who set curriculum. That is a matter for them, or for an organisation to take guidance from its own board, if that is how it is structured, about what is to be taught. That is not our role. We would not prescribe that, nor would we encourage or punish, if that is what an organisation did. That is not our role.

Mr DUGALD SAUNDERS: Do you think there is a perception that it is your role though?

Ms SCHORER: Well, I think that is obviously what has been portrayed, yes. But, clearly, that is not our role and that is not the relationship that my organisation had with that organisation. We are about trying to encourage the basics of, "What does it mean for you to be safe for children?" We certainly do not prescribe that kind of thing.

The Hon. GREG DONNELLY: I have copies of some correspondence for the witnesses. It is exactly the same as before. I could table it again, but it is the same thing. Thank you, Children's Guardian and witnesses.

Ms SCHORER: I can take the question.

The Hon. GREG DONNELLY: It is okay; you will need to have the paperwork in front of you. I will go through some questions that arise from questions I posed earlier today to the New South Wales children's advocate. I do so because it overlaps with you, because of your ongoing working relationship with the children's advocate, but more significantly, in some sense, your ongoing work at the national level with other children's advocates and guardians, through the body that involves Australian and New Zealand advocates and guardians.

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: I read from question number six that was posed to you on notice, and to which you provided a response: "Noting your office's inter-jurisdictional work on the national standards and your ongoing membership of the Australian and New Zealand Children's Commissioners and Guardians (ANZCCG) group, can you update the Committee on your work with other jurisdictions," and it goes on. In the first paragraph of your answer you say, "The Australian and New Zealand Children's Commissioners and Guardians group, and other related inter-jurisdictional groups, provide regular opportunities to identify and implement emerging best practice to promote children's safety and wellbeing, including information sharing, legislative alignment," and it goes on. And then there is a reference to COVID last year, and its implications in disturbing your regular engagement that took place through those national meetings.

I provided you with a bundle of three documents. I suspect you have not seen the first one. It is a piece of correspondence that I sent last year to the children's advocate who, at the time, was the acting children's advocate. That was not responded to, because we were in a transition period of the new advocate coming into place and being settled in, which is understandable. I sent the same letter on 19 June and I received a response, which is the second document in the bundle, dated 11 September. The third document in the bundle is an email chain, which I will refer to first because it links in with where the question goes, in terms of yourself. It starts off with questions that I raised with the Advocate at the hearing last year. Specifically, I take you to the last page, which says, "Annual Oversight Hearing" and "Questions on Notice".

Ms SCHORER: Yes, I have it.

The Hon. GREG DONNELLY: Those questions were directed to the Advocate, and I do not expect that you have seen them before, but you will note that there is reference to an ANZCCG meeting in May 2019, which I presume you attended. Is that right?

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: The next question is:

The Hon. Greg Donnelly: Would you be able to take on notice to find out whether or not it has been raised?

The matter being raised is gender dysphoria, which in that matter involves the whole discussion around gender fluidity. I expect you would understand that. Just to be clear, this is completely separate from the matter raised by the honourable member on the other side, who spoke about a matter before a Legislative Council inquiry on related issues. This is the matter that I have been talking about for some time. Go down to the supplementary question on the same page, where I ask the advocate:

As the Acting Advocate for Children and Young People, are you aware that the matter of the significant increase in the number of children ... experiencing gender dysphoria ...

Do you see that question?

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: I take you to the first document in the bundle, which is the letter to the Advocate.

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: That letter outlines the increase in the number of children and young people undertaking formal treatment for gender dysphoria—gender fluidity—in gender clinics around Australia. It includes the data for the five clinics that operate, as you probably would be aware of, in Western Australia, South Australia, Melbourne, New South Wales, across two hospitals—the Sydney Children's Hospitals Network—and Brisbane. That is the letter I sent to the Guardian last year outlining all the data. The last two pages deal with a summary of the whole issue. You do not have to read it, but that is what I have done. Going back to the supplementary question, the Advocate says:

I am advised that ... [at] the ANZCCG Meeting in May 2019 a presentation was given ...

You attended that meeting. Is that correct?

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: If we then turn to the front of the third document that we have been looking at—

Ms SCHORER: Titled?

The Hon. GREG DONNELLY: It has "Greg Donnelly"—that is me—"Thursday, 6 May".

Ms SCHORER: The emails, yes.

The Hon. GREG DONNELLY: Down the bottom—this is part of an email chain—you will see, "Good morning, Leon," Leon being a member of the committee secretariat. You would understand that.

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: It says, "I hope this email finds you well". It is very polite. Over the page is the answer from Mr Michael Shaw, then Director of the Office of the Advocate for Children and Young People, in which, finally, after some prising, I get the answer about what was covered at that meeting in May 2019. In all fairness, I will pause to allow you to read it, because you were in attendance at that meeting.

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: You have read that? This was a meeting, and part of the regular program of meetings, I gather, that take place. Are they annual or biannual, or just a couple of times a year, generally?

Ms SCHORER: The format has changed in the past 18 months.

The Hon. GREG DONNELLY: Right, of course, because of COVID?

Ms SCHORER: Yes, primarily. In the context of 2019, and in the years prior to that, they were twice a year. They would be hosted by a particular jurisdiction and the host commission or guardian would put together a program of presentations, from their own jurisdiction, that might be of interest to other members, so that is the context.

The Hon. GREG DONNELLY: And you would have known about this before you got to the meeting in Canberra? An agenda would have been circulated, I presume?

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: Here, Mr Michael Shaw is explaining that the meeting took place in May 2019—a meeting that you attended. Presumably this was on the agenda: some invitees to talk about the matter of gender dysphoria and gender fluidity. Is that what would have been the matter on the agenda?

Ms SCHORER: No, I do not believe it would have said that. I think it would have been something like, "the opportunity to hear from LGBTQ young people about lived experience". It would have been something like that.

The Hon. GREG DONNELLY: On notice, could you provide the Committee with a copy of the agenda for that meeting please? At that meeting that took place, the invitee was an NGO. Is that correct?

Ms SCHORER: From memory.

The Hon. GREG DONNELLY: From memory, okay. If there is any difference on that point after checking your notes, you can come back to us.

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: The representative was from an organisation called A Gender Agenda. Is that correct?

Ms SCHORER: Again, that would be a matter for the record, not my memory.

The Hon. GREG DONNELLY: That is not your memory?

Ms SCHORER: I do not remember, to be honest. You can look at the agenda.

The Hon. GREG DONNELLY: On notice, could you please go back and check whether or not A Gender Agenda was presenting at that meeting? That is the evidence we have from Mr Shaw, the director of the children's advocate. You have confirmed that you were in attendance at that meeting, so your records should confirm that. Do you have any recollection of what that briefing was composed of, and what was put to you?

Ms SCHORER: None at all.

The Hon. GREG DONNELLY: None at all? Okay. Would you have taken notes in regard to that meeting?

Ms SCHORER: Possibly, yes.

The Hon. GREG DONNELLY: On notice, could you please provide a copy of those notes to the Committee? Was there any documentation, in regards to this presentation by A Gender Agenda? Were there any documents, slides or pieces of information provided to you by A Gender Agenda?

Ms SCHORER: I would have to take that on notice.

The Hon. GREG DONNELLY: On notice, can you check that? If there are any slides, documents or briefing papers, could you please provide them? My next set of questions are probably going to be crimped now, if you do not have much of a recollection, because they were based on your general sense of what came out of that meeting in regards to this presentation. Do you have any recollection, at all, of what got covered by A Gender Agenda at that meeting?

Ms SCHORER: No, none at all.

The Hon. GREG DONNELLY: None at all? Okay.

Ms SCHORER: Sorry.

The Hon. GREG DONNELLY: There was a meeting cancelled last year, I presume, because of COVID.

Ms SCHORER: Which meeting?

The Hon. GREG DONNELLY: You said normally that the organisation Australian and New Zealand Children's Commissioners and Guardians [ANZCCG] gets together twice a year.

Ms SCHORER: Yes, when we could meet in person. From April last year we have had a monthly conversation, and now that is bi-monthly, because we were, collectively, wanting to keep an eye on the impact of COVID on children and young people.

The Hon. GREG DONNELLY: Of course. Have there been any face-to-face meetings since May 2019?

Ms SCHORER: November 2019, possibly.

The Hon. GREG DONNELLY: Possibly? On notice, could you check if there was a meeting? Would you have been in attendance at that meeting?

Ms SCHORER: From memory, yes.

The Hon. GREG DONNELLY: On notice, could you provide the Committee with a copy of the agenda for that meeting? Do you have a recollection whether the matter of gender dysphoria or gender fluidity was covered at the meeting?

Ms SCHORER: I do not recall that it was, but the agenda will confirm that either way. I do not recall that it was.

The Hon. GREG DONNELLY: Okay. If there were any documents provided at that meeting, in regard to the coverage of the subject, I ask that they also be provided to the Committee. With respect to the meetings that have taken place since, which have been remote meetings, has the matter of gender dysphoria or gender fluidity been discussed at any of the meetings?

Ms SCHORER: Not to my recollection, no.

The Hon. GREG DONNELLY: Not to your recollection, but they may have been. Is that correct?

Ms SCHORER: Not in the year to date, certainly.

The Hon. GREG DONNELLY: Since November 2019, there have been meetings via, presumably, Zoom or Webex. You participated in them. You do not believe they have, or you are certain they have not?

Ms SCHORER: No, I am certain. I can provide the confirmation out of session, in case, but it is really not—

The Hon. GREG DONNELLY: No, that is fine.

Ms SCHORER: I am almost certain—no.

The Hon. GREG DONNELLY: I am tying this all back, because with respect to—I will go back to this now and finish on this point. With respect to the third document that I have provided to you, could you just turn to the very back page? It leads in from the supplementary question I asked the Advocate last year. Going onto point number two on the last page, it says:

If the matter has not been discussed ...

—this is the matter of gender dysphoria and gender fluidity—

... have you placed onto the agenda for the next meeting of the Australian and New Zealand Children's Commissioners and Guardians the matter of the significant increase in the number of children and young people in the period 2014-19 experiencing gender dysphoria who are undertaking puberty blocker treatment in NSW?

I asked her to do that. The response was:

As requested by the Parliamentary Committee, I raised placing the topic on the agenda of the next ... meeting with the NSW Children's Guardian, who was convening the next meeting of the ANZCCG. Unfortunately, the meeting was cancelled due to COVID-19 Public Health Orders.

I understand that. Has the matter that I have raised with the Advocate, which has been raised with you directly as the Guardian, been placed as requested on the agenda for subsequent meetings? What I mean by subsequent meetings, is meetings after the cancellation of what would have been the program of meetings, as arising from the COVID emergency?

Ms SCHORER: The meeting we cancelled was in May last year. Not to my recollection, so I am very happy to remediate that.

The Hon. GREG DONNELLY: Why would it have not been done as requested?

Ms SCHORER: To be honest, it was an emergency agenda last year. We met for an hour, and we were focused on the policing and the control orders. We were focused on other things. We did not have our normal agenda operating, to be honest. My apologies for the oversight; I am very happy to remediate that at our next meeting.

The Hon. GREG DONNELLY: Okay. Do you need to speak to the children's advocate again about what has specifically been requested, or would you have on your file—

Ms SCHORER: I think the package of information you have provided provides the context, if you are happy for me to provide that to the group?

The Hon. GREG DONNELLY: Thank you very much. What I would like you to do, on an ongoing basis, as the Guardian, is provide back to this Committee, as a result of this engagement at this national level, what has been placed on the agenda, and the responses arising from it being on the agenda. The reason this is significant is that the numbers are very distressing. There are literally hundreds of children and young people in Australia going through programs at the five gender clinics involving, in the first instance, the suppression of their natal hormones—in other words, their natal hormones in puberty are being blocked from developing—followed by cross-sex hormone treatment, which is the injection or placement of the opposite sex hormone into their body. The third stage is surgery.

I appreciate the significance of COVID and all that goes with that, and I commend yourself and the advocates, at the state and national levels, for the outstanding work that you have done in protecting children and young people, but this is a significant matter because this is irreversible. This is sterilising children in terms of the outcomes, and there is no going back once they are sterilised. I invite you to have your office do a proper literature search on the matter of de-transitioning. Do you understand what de-transitioning is?

Ms SCHORER: Yes.

The Hon. GREG DONNELLY: Could you explain to the Committee what you understand de-transitioning is?

Ms SCHORER: At a period of time later in a young person's life, reversing the effects of what has been done to transition.

The Hon. GREG DONNELLY: Yes. And you would appreciate—

Ms SCHORER: That is traumatic.

The Hon. GREG DONNELLY: —that if you are in your 20s and 30s and you have effectively had your ovaries or uterus removed, and had a bilateral mastectomy—in other words, both breasts removed—there is no going back. If you are a male and you have had your penis removed, and you have taken hormones to grow breast tissue, there is no going back. This is happening to hundreds of children around Australia, including in New South Wales. I will leave it at that, but this is a very significant matter that myself and a number of members in this Parliament feel very concerned about.

Ms SCHORER: Noted, thank you.

Ms JODIE HARRISON: I have a question in relation to the Child Safe Standards, which have been developed as a result of the Royal Commission into Institutional Responses to Child Sexual Abuse. I just want to get an update on where that is that in New South Wales; a comment, if you could, on where we are sitting in New South Wales, in comparison to other States; and if there are any resourcing issues attached to that in New South Wales.

Ms SCHORER: Thank you. We have been on a pathway for about 18 months or two years, since the royal commission made its report, to work with the child-related sector in New South Wales to bring those standards into a mandatory scheme. We had a consultation process on an exposure draft of a bill, earlier this year and late last year, which has been finalised. That is now a matter for government to decide the progress and the timing of that. The program over the past 18 months has really been to work with organisations and sectors on a voluntary basis, acknowledging that we do not have a regulatory scheme in place as yet, because there is genuinely a lot of goodwill when people see the kind of reports that still exist, like we have read this week.

There is still a lot of work to do, around the culture and the adults who work with children every day. My office has had a long history of doing that engagement and education work—long before even the royal commission—to accompany what we do in the Working With Children Check. I think my observation in terms of where we are, in New South Wales, is that we have a strong history of working with the sector and training, education and capability building, and there is a genuine interest in us doing much more of that. We are not the only player in that market, if I can put it in that way, and we should not be. But we need to be, as the government body, the resource for people who cannot afford to buy it anywhere else. So, we want to deliver high-quality coordination, support and education for the sector.

I think the other thing that puts us in a really strong position, in New South Wales, is that we have had a reportable conduct scheme for 20 years and what we learn from reportable allegations, as terrible as they are, is where you see systems that do not work for children and young people. Having that history, coupled with what we will have, hopefully, in the years to come around those Standards, means that we have got, along with the Working With Children Check, a really robust framework for being able to move much more towards the prevention of abuse, and the early addressing of some of the problematic behaviours that you might see in adults, who may escalate in their offending down the track. I think we are in a really strong position in this State. We can always do with more resources to do that job though.

Ms JODIE HARRISON: In one of the answers to the questions on notice, you actually talked about seeking additional funding to be able to implement reportable conduct schemes since the Guardian has been made responsible for it. You refer to advising NSW Treasury of the impact on your operations. Can you please tell the Committee what the impact on your operations is of taking that, without that funding?

Ms SCHORER: Just to clarify, what that refers to is that the Reportable Conduct Scheme came across from the NSW Ombudsman in March last year. With the legislation changes, it was expanded to include the religious sector. The Ombudsman had, and we have, sought additional funds to acknowledge that expansion, which is what we have not received. What it means for us, operationally, is that you have to make choices about other things, which might be internal business. You redirect resources. Our focus is always to make sure the staff, the investigation officers in reportable conduct, our staff in Working With Children Check operations, those who do our compliance and our out-of-home care frontline work—we try to resource those as fully as we can within our envelope, and take cuts in other ways, so that we make sure we are putting as many resources as we can into that front line.

But we are always looking at ways to be more efficient. That is certainly something that we have been able to do with a fresh set of eyes on reportable conduct, to be able to look at how we can be more efficient and effective with what they are doing, and they have certainly risen to that challenge. But there will be a point where we are not able to do as much as what we would like to do in the next 12 to 18 months.

Mr DUGALD SAUNDERS: Could I just ask about out-of-home care? That is one of the things that I think, in last year's hearing, we talked about—the breakdown of out-of-home care. It is one of the great struggles that I think everyone has in the sector. Are there things that you have been doing, or working on? I realise last year was a very difficult year to do that, but are steps being taken or are there ways forward that you have seen to try to help stop that breakdown of out-of-home care, and people moving from one to the other?

Ms SCHORER: It is a great question. I think, acknowledging that 2020 posed some particular challenges for the out-of-home care sector and, I think, acknowledging, on the record, how adaptable and how resilient that sector is, in not only working in the interests of those vulnerable young people but wrapping support more actively around carers and families, but also looking after their staff, but working together—I think there has been a lot that we have learned in the past year about how that sector works together, and so I commend them for that. I think some of the challenges and pressures of the last 12 months have been around where carers are

feeling stressed, and what that leads to, in terms of placement breakdown or carer stress. I think the department has done a lot to support that, and I think the sector and the peak have also done a lot around carer support and the placement support.

One of the particular areas that we looked at, was that we followed the group of young people who were leaving care in 2020. We did an individual review of all of those young people, and are just finalising some analysis of what we observed about leaving care planning. Leaving care is one of those things that is always really tricky in our sector. We have made individual recommendations about how those young people might leave care well during a pandemic. But, also, we will finalise a review on a more system level about that, and I am very happy to provide a copy of that to the Committee. Really we were concerned that, for that particular group of young people, the impact of the economic environment, the housing environment, and other things, might mean that they were more vulnerable to drifting after leaving care, and so that is a particular group that we focused on last year.

Mr DUGALD SAUNDERS: Sometimes it occurs that you have got a person who turns 18, and then stops being part of your care, per se, but they want a relationship with the former parent. I have spoken to a few of them, and they find it quite difficult sometimes to rationalise that. Is that something you are looking at trying to improve?

Ms SCHORER: Just to clarify, they want a relationship with their birth parent or their foster parent?

Mr DUGALD SAUNDERS: Sorry, with their foster parent. And sometimes that is a difficult scenario, I gather.

Ms SCHORER: I imagine it can be. I think that is what leaving care planning should be about. Because those relationships, even if they are short in terms of a young person's care experience, are still significant and they are an adult attachment, and so the leaving care planning, ideally, should really focus on what the relationships are that matter for this young person, to sustain them into adult life. You do not turn off those relationships with any other child who is with their birth family when they turn 18, so how do you maintain and preserve those? As we know, many young people also drift back to their birth family, even if that has not been a great relationship, because the attachment is so strong. So it really has to be how do you articulate and support those relationships for young person as they move into adult life? I will not give any spoilers about the report, but I imagine it might speak to something like that.

The ACTING CHAIR: Noting that the Children's Guardian has recently surveyed a broad range of organisations that are implementing the Child Safe Standards, can I ask if you could update the Committee on any issues that have been raised by stakeholders in the consultations, or in your survey?

Ms SCHORER: Thank you for the question. I am happy to provide a bit more detail on notice, if that would be helpful. I could just give my observations, but I think, on notice, my team will give you much richer detail. What we wanted to do in the survey, initially, was to be able to start to understand at a very basic level what organisations were doing, and how they were thinking and travelling, in terms of being child safe. Part of that ties in to how they are using the Working With Children Check. You may have seen from the annual report, and some of our questions on notice, the Working With Children Check is often used as well. We do that so that we are all good as an organisation. It can be used by people who do not work with children.

So it really was an opportunity for us to get in front of HR people, or others within those organisations, and just to make sure they understood what their obligations were when it came to being an employer. I think what that shows us is there is still a lot of variability in how a screening tool like the Working With Children Check is used or overused. The other themes around the consultation more broadly, can I clarify, you are meaning the consultation around the exposure draft of the bill, or generally?

The ACTING CHAIR: No, with regards to the actual Standards.

Ms SCHORER: There is very broad support for moving to a mandatory scheme of Child Safe Standards. I think, for the organisations that I speak to, you want that assurance that there is someone outside of yourself. You do not want them in your business every day, but you want to know that there is someone who is a checkpoint for you if something is really hard. You have got someone outside the organisation who can give you a perspective and do some of the hard work for you if you need to, and that is what we do. So there is general support for that. I think there is always some clarification we can do. But because, as I said before, we have the history of engagement, capacity building, training and education, what we propose is a very principle-based approach to those standards. There are 30,000 organisations, big and small—that is from the Department of Education to the Wagga soccer club. It has to be proportionate, and it has to be accessible. We are talking about volunteers—busy people who have got other jobs to do. Because we have the history of that being how we

approach our work, there is broad support for it. It has been a good process, and it is something that we have been talking about for a long time. It is well understood how we want to do this, and what the conversation has been.

The ACTING CHAIR: Just a follow-up to that—and I am happy to take further opinions on notice, if you would just like to give your observations and then consult with your team. What are the challenges that organisations have experienced in terms of implementing the Standards?

Ms SCHORER: At this stage, they do not have to. They are entirely voluntary at this point in time. What we want to do is make sure that when it is—hopefully down the track—a mandatory scheme that the approach is proportionate to the organisation. We manage regulatory burden quite carefully. We are very mindful of that, as I said before, in relation to the earlier question. We are not in the business of tick-a-box compliance. That is not the right approach, if we are about prevention and culture in an organisation. We want to be about, how do we give you the resources, tools and support to understand your organisation, and understand the risk that is unique in your organisation, for children and young people, and the scenarios and situations you are in? How do we give you the tools to do that really well, and be at the end of the phone, when you have got a question, rather than being heavy handed about it? It will absolutely be something that is very dynamic. We have had strong support for enforcement, but it will not be the thing that we come to quickly.

The ACTING CHAIR: For those organisations that are choosing to implement them, do you have any feedback on any challenges they are facing?

Ms SCHORER: One of the biggest challenges, that organisations spoke to us about, was this concept of empowerment. That is why we progressed the detailed guide, and the work on that, with the University of South Australia and the commission in Victoria, to just give some practical guidance on what does it mean to have children and young people engaged in the life of your organisation—whether that be sport or education or whatever it might be. That is one of the biggest areas. Then you get to issues about how you have a good, robust complaint process. Not having complaints is not a good thing, in an organisation. You want to be able to be hearing where some of the challenges are, certainly, well before they are allegations or grievances. So, how are you understanding the behaviour of the adults in the organisation, that you are hearing from young people, you have an organisation that listens to feedback, all those kinds of things. That is some of the stuff that we will have to get to next. The other part, which we released some guidance on last year, was about how to develop a good code of conduct and how to implement that, so that it is a living document in your organisation. There will be more of that to come.

The Hon. GREG DONNELLY: Returning to the same theme about the Children's Guardian Amendment (Child Safe Scheme) Bill 2021, the consultation has taken place, as I understand. Would you just elucidate on how that all went, in terms of engagement, rough numbers and what have you? If you want to put specifics, they can be taken on notice. I do not expect you to have them with you. But will you just provide a bit of an overview of how it all went? Did it meet your expectations?

Ms SCHORER: I am happy to take the question. We received about 200 responses to the public—no, that is 2019. We have been through a two-year consultation process around the Standards. The first was in 2019, where we issued a discussion paper. We had written submissions, a survey and we spoke to a variety of organisations. We had hundreds of submissions to the exposure draft of earlier this year. In terms of some of the commentary I provided earlier, in those 2019 conversations, the weight of evidence about the architecture of those Standards, coming from the depth of research and experience that the royal commission heard, they are the same standards. So people see their value and stand by them. I think they have been echoed, subsequently, in other reviews. Certainly, the feedback was that you need to have a different regulatory role, based on the size and type of organisation that works with children. That is certainly the way we went. As I said before, any scheme needs to have teeth, to be able to step in and have enforcement powers. That is certainly something that we took on board. You then get into some of the complexities about entity. We have clarified some of that in the Children's Guardian Act 2019. There will be further clarification about that to come, in subsequent legislation.

The Hon. GREG DONNELLY: Have you got a copy of the public consultation draft bill handy?

Ms SCHORER: I do not have one on hand, sorry.

The Hon. GREG DONNELLY: Down the bottom of page 4 of the public consultation draft it has got "8AA definitions". It talks about child safe action plans and "see section 8C". Then it has got the next definition:

child safe organisation means—

- (a) a Schedule 1 entity, or
- (b) a public authority, or
- (c) a religious body, or

(d) an entity, or part of an entity, prescribed by the regulations for this definition.

Just going back to (a), which says "Schedule 1 entity", can you just explain the process or procedure that would lead to being listed on the schedule 1, as an entity?

Ms NILES: The Children's Guardian Act currently has a list of entities in its schedule 1. This part will be an amendment to the Children's Guardian Act. When it refers to a schedule 1 entity, it refers to the schedule 1 in the Children's Guardian Act. Those entities are already listed. Having said that, there may be some slight amendments to the definition of what a child safe organisation is, post-consultation. In answer to your question, the entities listed in schedule 1 are the entities that are referred to.

The Hon. GREG DONNELLY: That is very helpful. I speculated that that might be the case, but I just wanted to ask. Following the consultation which has been completed, did I mishear you earlier, that there is a report that has been produced in regard to the consultation?

Ms SCHORER: Correct.

The Hon. GREG DONNELLY: Whereabouts is that report in terms of being released?

Ms SCHORER: That is a matter for the Government to decide at this point in time.

The Hon. GREG DONNELLY: Has it been presented to the Minister?

Ms SCHORER: That is correct, yes.

The Hon. GREG DONNELLY: How long has the Minister had the report?

Ms SCHORER: I could not tell you that, off the top of my head.

The Hon. GREG DONNELLY: On notice, can you please let us know when it was provided—not what is in the report, although I am happy to receive that from you—or sent to the Minister? That would be of interest. It has obviously been done this year, because it follows the completion of the consultation.

Ms SCHORER: Correct, yes. It would be in the last month.

The Hon. GREG DONNELLY: Thank you for that. With respect to the next stage, it has gone off to the Minister for his consideration. We understand how that normally progresses. Once again, I am not asking you to reveal confidential discussions between you and the Minister. Following the receipt by the Minister, is there an expectation that there is a timetable for some legislative initiative on this? Once again, I am just trying to get a rough sense of it. What is your understanding?

Ms SCHORER: That is really a question for government, I think. We have provided the—

The Hon. GREG DONNELLY: Report.

Ms SCHORER: —advice, and the rest is a question for the Minister, I think.

The Hon. GREG DONNELLY: Okay, so there is nothing more you can say. Your remit was, effectively, to produce the report and engage in the consultation. You have done that and satisfied your obligation.

Ms SCHORER: Correct.

The Hon. GREG DONNELLY: Thank you for that. I move to a couple of comments you made in answer to earlier questions. I am trying to probe a little bit about the meaning of what you said. I fully appreciate the intent behind your comments, but I am just trying to clarify them. You said the Guardian's role was to "honour children's experiences and voices". What do you mean by that? That is not a trick question. I am just trying to grasp what that means.

Ms SCHORER: Thank you for the question. I think what our intent around a children's voice is, is really articulated at an initial stage in the relevant standard, and then how we have sought to convey the participation of children and young people in organisations, through our resource. Really, what that is about is that children and young people have a perspective on organisations, and how safe they feel in those, and children speak about safety and how safe they feel in environments, and how safe they feel with particular adults in different ways. Having an organisation that actively listens to young people about their experience and how safe they feel is actually really important, not only for the organisation to be safe, so you have heard that perspective, but also to be able to hear if there is something that a child or young person needs to raise, in terms of something going on that the organisation needs to take seriously and respond to. That is the voice that I am talking about—that children participate in the organisation. That when they raise something, they are listened to, and that they are able to raise a concern and have adults take that seriously, and act on it.

The Hon. GREG DONNELLY: I have a follow-up question, which ties in with your response just now. You said that the role of the Children's Guardian is not to provide advice or opinion. Those were your words. That brings me to the question: what do we do in a situation with circumstances where there may not be children or young people speaking up about a matter—using your words—because they cannot articulate a response, because of the potential detail or complexity of the matter? In other words, they cannot respond—to put it in simple terms.

But there are adults who can observe or see the things from their point of view, and that can be tested one way or another, and that should be of concern, even though the child is not articulating them. What is the role, if there is, of the Guardian to receive that input from adults who are observing and seeing things going on, which they have concerns about, but perhaps may not be being articulated because of the complexity, nature or detail of them by children and young people?

Ms SCHORER: That is a great question. The role we have is about adults and organisations. Exactly that scenario is reasonably common, and we observed that last year, for example, with children spending a whole term learning at home. One of the major reporting environments, where children speak up about something that might not be right at home, is school. That meant that there was a period of time where those sorts of reports—because a child might trust a teacher, or someone at school, to say something is not right at home and a teacher, in doing the great jobs they do, do not have visibility, necessarily, of how a child is turning up to school and participating in their learning. In those scenarios, you have got a significant proportion of the workforce, that supports our children and young people, who are mandatory reporters.

If it is from the perspective of a worker, about something that is going on in a child's life, whether that is at home or another scenario, they have a legal obligation to notify someone. If it is the other side, and a parent is concerned about something that is going on in another environment, we have limited opportunity for parents to make direct complaints to us; that is not our role. But if it was about something going on in another organisation, certainly, the Ombudsman still has a significant role in managing complaints about entities. We do take notifications of concern, whether that be in relation to reportable allegations or about organisations that might have someone in their employ, where someone thinks they are not quite right, or we do not think they are working with the right check, or something has gone on that has not been investigated. That is really where our compliance role or, in the care sector, where our out-of-home care team would look into it. But in terms of that broader complaint role, we do not have a role there at all.

Ms JODIE HARRISON: Back to the exposure draft Child Safe Standards bill, you said there were about 100 submissions to the draft.

Ms SCHORER: Over 100, from reading my notes.

Ms JODIE HARRISON: Were there any particular groups that more actively engaged, or any particular kinds of sectors? What kinds of feedback were given to the exposure draft?

Ms SCHORER: I have to take some of that on notice. I think I can provide a bit more detail, subsequently. From my recollection of the work, we received a fairly broad spectrum of sectors and organisations that provided commentary into that—across the sporting sector, the voluntary sector, the faith sector, some of the out-of-home care organisations. It was a very broad canvas of the sector that provided input. I add to that the comment that it builds on what we did in 2019. This has been an ongoing conversation and expectation. Whilst we relied on a formal process around a draft bill, in the most recent discussion, that bill was informed by what we had done the year before. It has really been a fairly detailed process, mostly because we want this to be about something that the child-related sector in this state sees as valuable, identifies with, can see their part, and it is something that they see is valuable. We needed to do that as openly as we possibly could, within the constraints of doing this kind of process. It was a very broad representation of organisations that responded to the survey and in written submission.

Ms JODIE HARRISON: I was speaking to a large provider of childcare services and they have adopted child safe principles in their organisation. Can you talk to the need for the commitment to Child Safe Standards at all levels?

Ms SCHORER: I think I would just go back to what we have seen this week in the Gymnastics Australia report that really speaks to how important leadership around culture is from the top. The standards speak to that. The standards talk about governance that is focused on the rights and the safety and wellbeing of children, and if you are governing and leading an organisation, understanding that that requires a change of mindset, but also managing a different set of risks than if you are operating a system for adults, it does filter all the way through.

The standards also talk quite a lot about employing the right people, how you recruit people to work with children, that you do the probity side, the due diligence, but you also just get the right people to work with children, and that you give them the right tools, and education, and training, in an ongoing way to enable them to do that

well. It is important that you do some of the training we provide, but lots of others do. But the importance of having a really clear expectation about how adults will behave with children and young people and if people start to go outside the guardrails—if I can put it that way—that you call that fairly quickly, rather than allow it to escalate into something. Because children might say something about an adult working with them, in any form, that says they are not quite right, but before long you have got something that is quite serious. So it takes the adults in the organisation to call that out, I think.

But then the other part is about, I think, the participation of children and young people. I was asked this question during the week: are we putting too much of the burden of accountability for calling out when things are not right on children? I think there is a reason why most of the Standards—it is one of the standards that speaks to the role of children and young people, and them being empowered to participate—but most of the Standards are about the behaviour, and the expectation, and the accountability, of the adults in the organisation. And that is, rightly, where the expectation should be, but to do it from the perspective of, how do we value the children that we are serving every day? The adults and the accountability for the organisation are really quite critical.

Ms JODIE HARRISON: Have any other states or territories mandated child safe standards yet?

Ms SCHORER: Victoria has had some mandatory standards, for a few years now, yes.

The ACTING CHAIR: Mr Saunders, do you have any other questions?

Mr DUGALD SAUNDERS: I am fine, thanks, Chair.

The ACTING CHAIR: I have got a question with regards to working with children, and this is an example that I experienced in my previous role, when I worked as an IT manager within a system of schools. One of my staff informed contractors who work in schools that our organisation wanted Working With Children Checks done. The contractors were exempted. Then, after my staff did that, I was then contacted and threatened to be reported—because it is in the legislation—and be taken to court. Just out of interest, and in the interests of children, what are the comments around organisations who want to protect their children, even though a contractor in this case was exempt, about organisations that are wanting all of their contractors to be Working With Children checked?

Ms SCHORER: Thank you, that is a great question. I will start and I might pass to Ms Niles to answer some of the rest around contractors. I think what we encourage organisations to do, is to think about who is directly in child-related work, whether that is a contractor or a direct employee. The reason we try and discourage the sort of blanket application of the Working With Children Check, is just from our experience, in two ways: firstly, some of the issues that we are trying to manage, of the people who do not need it, sort of, whole organisations or sectors who do not need it. An example at the moment, which is probably not surprising, is the aged-care sector is applying for lots of Working With Children Checks. I do not think they are working with children, but it is risk management. So, in the absence of having a mandatory scheme, a child safe standards scheme that says you can manage a risk in other ways, people rely on screening because they think, "At least it tells me what has happened up to today"—because that is all it really does tell you—but you need all the other things to prevent what might happen tomorrow. So we kind of just go to that.

The other is that we find that people who screen everyone in their organisation do not understand the obligations around verification. And that is a really important step, because what that does is connect us, the employer and the person who is working with children. So, if I had to call you tomorrow and say, "Employee Y has had something happen. You need to remove them from child-related work", those are usually the employers who have not done that verification. So, that makes it really hard for us to know, who do we call to get them out of that? That is sort of part of our response. Contractors are another—we have made some changes to how contractors are treated in the current Children's Guardian Act, which I will ask Ms Niles to speak to, but it is something we are very mindful of and maybe, down the track, need some clarification for in our legislation.

The ACTING CHAIR: Just before you respond, if I may just add something. A typical scenario, almost an everyday scenario, would be where a data contractor would be signed into the school, and is then largely unsupervised. While they are not necessarily in the classroom—in some cases they may be—there are children walking around the school. That is why I think, in the interests of children, and I note the interests of your workload, but in the interests of children, is kind of why I am asking that question.

Ms SCHORER: Quite. I will jump in. I completely understand that point. I am more interested in the safety of children than our workload. But it is just something that when you see the overuse of it you think, "Well, how do we manage that?" because that does not protect children; it just actually creates burden for people, for organisations to be compliant. The question there becomes about, is it just incidental? It has got to be more than incidental. So, if it is someone who is just doing some onsite work for a day, they do not need to be screened for that. I think there are other strategies that you could have in place, that made sure they did not have contact with

children. If it is an ongoing role—certainly our legislation provides for cleaners, for example; they have a fairly ongoing role in school grounds, people who do regular handyman sort of work, whatever it might be—so I understand why organisations do that. I guess my point is more: think about who you want to go through it, and who might be in regular, more than incidental contact with children and young people, rather than applying a big blanket, that you have then got to manage the big blanket from a compliance perspective. Do you want to add anything?

Ms NILES: No, that is absolutely right. Thank you for that question. In relation to contractors, as Ms Schorer just said, if they are in child-related work then yes, definitely, they would be within the scheme. But if they are not, and that is where child safe comes into being, there are other things that an agency can and should do to ensure that those people that do not have direct, immediate contact, where it is just incidental contact, should be protected, that children should be protected differently. The change that Ms Schorer was talking about, in relation to the Children's Guardian Act, is that in the context of reportable conduct, we have now brought in a provision that says that if a contractor does require a Working With Children Check—that is the first point—if they do require a Working With Children Check, then they would also come within the Reportable Conduct Scheme.

I do not know if you might recall the Mosman swimming pool situation, where there was a contractor who was not brought within the Reportable Conduct Scheme, because the person was a contractor and not an employee. We have expanded that definition of what is an "employee" to include contractors who have, or are required to have, a Working With Children Check, so that then they also come within the Reportable Conduct Scheme, and there are obligations, then, on the part of the employer, to ensure that reportable conduct is brought into the picture as well. So the Working With Children Check and the Reportable Conduct Scheme then work together in relation to contractors, where they either hold, or are required to hold, a Working with Children Check.

The ACTING CHAIR: Thank you.

The Hon. GREG DONNELLY: Just on the matter of contractors, could I just raise this? It just sort of crossed my mind in your answer. In a completely separate inquiry being undertaken in the Parliament—and just bear with me, because you might say, "What has this got to do with it?"—the matter of people working in the gig economy, doing work, but the question of the definition of that work, what is the nature of the relationship? Obviously, you have a person who has contract employment—i.e. they are an employee covered by an award, or an enterprise agreement, or whatever the case may be—and you have people who are also contractors, as commonly understood, defined as having a contract, but they are not employees. We have got this group of people at the moment—I sort of use that in the general sense—that are not employees or, at least, there is some serious contest that they are not employees, and the organisations that run the platforms do not want them to be employees.

But they are not contractors either, as traditionally understood. The committee has received a fair bit of evidence about this. What has come through is that there is now, in the caring industry—once again, as broadly understood—an ability to engage someone, via a platform, to do work like caring. There is a well-known website—I think the name is Mable, or something or like that—where one can do a search to seek someone to do the job, so to speak. It crossed my mind as that answer was coming back that there may be a need to look at these individuals who may not be employees or contractors, as traditionally understood, but who are in a more amorphous role—we still do not have a clear definition of it, in work-related matters, but we are calling it the 'gig economy'.

To the extent that they may interface with caring work and are involved in dealing with children, that may be something that needs to be looked at, so that they are caught by, perhaps, a more omnibus definition, at least, for the time being, until there is a more precise definition around it. We have an expert lawyer at the table, I am sure, who might want to jump in and make a comment. If not, you could just take it on notice. It is just a comment that crossed my mind as the answer was coming back about the two, because this is increasing. I could get onto the website, and get someone to come and do something, to fill in, to do some caring work, or whatever the case may be. It does raise those issues.

Ms SCHORER: In relation to the other work, when you sort that out, we would be interested.

The Hon. GREG DONNELLY: Probably no time soon, I best say.

Ms SCHORER: I think it is right. My professional history, observing the proliferation of that in the NDIS and the utilisation of those—

The Hon. GREG DONNELLY: Yes, you are well familiar with it.

Ms SCHORER: We see a little of it, in the children and young people domain, in terms of finding a babysitter. I know we have done a little bit of compliance work around those sorts of organisations, where you

could be getting anyone off a website. So I think, in terms of future legislative options, we would be very interested in—

The Hon. GREG DONNELLY: Airtasker is the other one that is well known.

Ms SCHORER: Yes, that sort of thing. People would go there for an emergency babysitter, and you never know who you are getting. We would be very interested in the outcome of that committee work.

The Hon. GREG DONNELLY: Thank you. I was just prompted by the very astute answer that was given.

Ms SCHORER: Yes, that is good. Thank you.

The Hon. GREG DONNELLY: My final question is on the matter of reporting to schools. I am trying to understand the precision over what guidelines operate in the schools, given the range of people involved in dealing with students coming forward with issues, be it in primary or high schools. We know the Government has a program of rolling out school nurses, which is fine. From the evidence given this morning by the Advocate, I think there are 50 nurses about to go into schools, and more to come. But in addition to the nurses, there are the school counsellors, as we traditionally understand them, there are people called chaplains—I understand at least some of them are still around, and I think that is a Commonwealth program—and then there are perhaps other people who are not teachers. But let us just stick with those three—the nurses, the counsellors and the chaplains—and then we obviously have the teachers. I suppose there could be teacher's aides, as well, which you could include.

If there is, in fact, a report by a child or young person, or concerns arising from a conversation with them, what is the level of training as you understand it that operates? That is, what formal training, or training, is there that ensures that a person, be they in one of the categories that I have described, or a teacher, understands with some precision the reporting process and their role in it? Is that something that is looked at and checked, on an ongoing basis? As new teachers come in each year, they need to be brought up to speed, whether they come out of graduation, or university or whatever. How is that maintained and are there any ways in which we can improve it?

Ms SCHORER: Yes, thank you. I think there are always ways to improve everything, so I will start with that. In our own Department of Education, a lot of that training happens through the mandatory programs that teachers must do, through the NSW Education Standards Authority, to meet their ongoing qualifications. I know that the professional and ethical standards part of the Department of Education, which oversees their reportable allegations to a level that we do not scrutinise, does a lot of training and education related to student wellbeing, and about teacher's obligations in reporting, and other things. We have an ongoing relationship with them to oversight their work in reportable allegations. I know that there is obviously a role that the Department of Communities and Justice plays, to make sure that teachers understand their mandatory reporting obligations as well. A school counsellor, a chaplain or any of those, I believe, would be a mandatory reporter as much as a teacher would be, if anything were revealed to them by a child or young person. I think our—

The Hon. GREG DONNELLY: I must confess that I do not know what the reportage procedure is inside each school. Is it to the principal, directly, within a time, or whatever the case may be? But that line of reportage, as far as you are aware, is clear?

Ms SCHORER: I would not be able to comment on the detail of that.

The Hon. GREG DONNELLY: Okay, that is fine.

Ms SCHORER: What we look at, primarily, is the relationship with reportable allegations about employees, and we only really have visibility of a small section of those that move through the Department of Education, because of the threshold.

The Hon. GREG DONNELLY: Sure. Thank you for that.

The ACTING CHAIR: I thank each of you for attending today before the Committee. The Committee may wish to send you, in writing, additional discussions, the replies to which will form part of your evidence. Would you be happy to provide written evidence should the requests come through?

Ms SCHORER: Of course.

The ACTING CHAIR: Great. Thank you very much. That concludes our public hearing today. I place on record my thanks to all witnesses who appeared today. I also thank the committee members, the committee staff and Hansard for their assistance in conducting today's hearing.

(The witnesses withdrew.)

The Committee adjourned at 12:59.