

REPORT ON PROCEEDINGS BEFORE

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

**2025 REVIEW OF THE ADVOCATE FOR CHILDREN AND YOUNG
PEOPLE AND THE CHILDREN'S GUARDIAN**

At Macquarie Room, Parliament House, Sydney, on Friday 15 August 2025

The Committee met at 10:15.

PRESENT

Mrs Helen Dalton (Chair)

Ms Donna Davis
Ms Lynda Voltz

PRESENT VIA VIDEOCONFERENCE

The Hon. Scott Barrett
Dr Amanda Cohn
The Hon. Stephen Lawrence

The CHAIR: Welcome to the public hearing of the Committee on Children and Young People for the 2025 review of the Advocate for Children and Young People and the Children's Guardian. Before we start, I acknowledge the Gadigal people, who are the traditional custodians of the land on which we meet here in Parliament. I pay my respects to Elders past and present of the Eora nation, and extend that respect to other Aboriginal and Torres Strait Islander people who are present or viewing the proceedings online.

I am Helen Dalton and I am the Chair of the Committee. I am joined by my colleagues Ms Donna Davis, the member for Parramatta, and Ms Lynda Voltz, the member for Auburn. Members appearing via videoconference include the Hon. Scott Barrett, Dr Amanda Cohn and the Hon. Stephen Lawrence. I thank the witnesses who are appearing before the Committee today and declare the hearing open.

RACHAEL WARD, Acting Children's Guardian, Office of the Children's Guardian, sworn and examined

LARISSA JOHNSON, Director, Out of Home Care Regulation, Office of the Children's Guardian, affirmed and examined

ALEXIS BRADSHAW, Acting Director, Working with Children Check, Office of the Children's Guardian, sworn and examined

The CHAIR: I welcome our witnesses from the Office of the Children's Guardian. Thank you for appearing before the Committee today. Please note that Committee staff will be taking photos and videos during the hearing. The photos and videos will be used for social media and public engagement purposes on the New South Wales Legislative Assembly's social media pages and websites and in its public communication materials. Please inform Committee staff if you object to having photos and videos taken. Before we proceed, do you have any questions about the hearing process?

LARISSA JOHNSON: No.

RACHAEL WARD: No.

ALEXIS BRADSHAW: No.

The CHAIR: Would any of you like to make a short opening statement before the commencement of questions?

RACHAEL WARD: Good morning. I would like to acknowledge the Gadigal people of the Eora nation, the traditional custodians of the land on which we are meeting, and pay my respects to Elders past and present. On behalf of the OCG [Office of the Children's Guardian], I recognise the ongoing impacts of government policies and practices, and I am committed to our responsibility to work together with and for Aboriginal and Torres Strait Islander children, families, and communities. Good morning, Committee. It's good to be with you. Thank you for the opportunity to provide an opening statement. As stated, my name is Rachael Ward, and I have been appointed as the Acting Children's Guardian since 7 March 2025.

As you'll be aware, the OCG has been undergoing a time of change and uncertainty during 2025. I would first like to take the opportunity to thank and recognise the staff at the OCG. They have demonstrated great resilience and courage throughout this time, and yet remain focused on our work and clear on our purpose to protect and improve the outcomes of children and people with disabilities. My focus during this time has been ensuring clear communication and providing regular updates and support, with an increased focus on staff wellbeing, with the support of the People and Culture team. The undercurrent is that staff have been generally happy in their work. Since my arrival, staff have embraced a fresh perspective while focusing on business as usual.

We are eager to receive the recommendations and outcomes from the inquiry, which will give more clarity and certainty for staff on the path forward. This should not detract from the efforts already in place across the office to improve workplace culture and governance. This includes the collective efforts of staff during 2024 to develop the OCG strategic plan, business plans and the People and Culture Strategy, including introducing showcases and talent recognition. The OCG continues to work closely with our audit and risk committee. The committee meets quarterly, or as required. We recently introduced two new committee members who bring experience in governance, risk, human resources, and child protection.

I would like to take a moment to outline some of the key achievements and significant progress on key areas of work over the last year, if I may. One of them is Child Safe and the "Getting Started" campaign at eLearning resources; the Child Safe roadshows; forums such as the religious sector community of practice, the Child Safe Prescribed Agency Steering Committee, and the Reportable Conduct and Child Safe interjurisdictional forum; amendments to Children's Guardian legislation, and significant work on reforms to the Working with Children Check legislation; developing a new code of practice for designated agencies and adoption service providers to align with the Child Safe Standards, which will commence on 1 October 2025; and restructuring our regulatory process in out-of-home care from a one-size-fits-all accreditation assessment process to one that is more tailored to the specific circumstances of individual agencies, now with a mix of agency self-assessment and onsite assessment of practice by OCG assessors.

We are prioritising applications for accreditation from Aboriginal agencies wanting to provide out-of-home care services, and our assessors are working closely with these newly emerging agencies to review emerging practice and provide feedback about their practice improvements. Recent events have also demonstrated the important functions of the Children's Guardian and the interconnectedness of the schemes. New South Wales has some of the most robust Working with Children Check, Reportable Conduct, and Child Safe schemes in the country. The New South Wales Working with Children Check has prevented thousands of people with relevant

criminal or workplace records from being engaged in child-related work, paid or unpaid. Whilst the Working with Children Check can help prevent known offenders from working with children, we also know that it can be often many years before a person who has experienced abuse comes forward to report the abuse. This is where the Child Safe Standards come in.

The Royal Commission into Institutional Responses to Child Sexual Abuse identified 10 Child Safe Standards that were present in organisations that were safe for children. These standards have been legislated in New South Wales, and organisations must implement these to strengthen their practices and deliver safe services and environments for children. Lastly, I would like to thank all the people involved in keeping children and people with a disability safe in education, sports, arts, and community organisations. It really does take a community. Thank you again for the opportunity to make this opening statement. I look forward to today's discussions.

The CHAIR: I inform the witnesses that they may wish to take a question on notice and provide the Committee with an answer in writing within 14 days after receiving the question. I might kick off. I know recruitment is very, very difficult. I'm just wondering how you're addressing the challenges of recruiting and retaining qualified staff and supporting staff development and wellbeing.

RACHAEL WARD: I might tackle the first part of that question first. In relation to recruitment, I think it's across the board at the moment, the challenges with obtaining new staff particularly. Since I've been at the Office of the Children's Guardian, since March, we've had a hold on recruitment pending the inquiry. However, the Office of the Children's Guardian attrition rate—people leaving the Office of the Children's Guardian—has been at 13 per cent, which was 12 per cent on last year. In terms of new staff, our FTE at the moment is 270, which is eight down from last year, but that was mainly the result of five directors leaving our employ.

The strategies that we're employing for wellbeing and to improve workplace culture—I think the Committee was told in 2024 about a report that was completed by Anne Cosgrove into the workplace culture of our office. Those recommendations have been worked through throughout 2024 and continued whilst I've been there, since March. That included having a Director of People and Culture appointed, Ms Adams. Ms Adams has been extended until January 2026. There is also our People and Culture Strategy, which was released in 2024, as a result of that report. It was developed based on staff feedback and insights gathered from an all-staff planning day that was held in 2024. As a result of the People Matter survey, we have developed a corporate strategy for 2024 and a supporting business plan for the end of financial year '25.

The activities that have taken place since the release of the strategy was an implementation of new business planning and reporting processes, delivering of an OCG showcase—the staff's feedback predominantly was around the siloed nature of the different directorates within the OCG. You might be aware of the history, that areas have been merged in during the course of time. One of those was Reportable Conduct, which came in during the time of COVID, so when staff resettled they really didn't know what each directorate was doing. So, showcases around the office, and having directorates actually present their work and what they're doing and achievements has gone a long way to highlight to staff, particularly, the broad work of what the OCG does. It's a place that they can see themselves working at.

The CHAIR: What progress have you made in appointing and supporting the Aboriginal Assistant Guardian since recruitment was announced during the last review? Is there any progress on that?

RACHAEL WARD: Yes. Interviews were held in April 2025 and we are just awaiting the final outcome now. I would say it has been successful. Once the inquiry is finalised we hope to move forward on those appointments.

Ms LYNDIA VOLTZ: I would like to ask you about Working with Children Checks, and I'm sure some of my colleagues might want to jump in and ask some questions as well. Obviously there is a new bill before Parliament. There is the five-year statutory review of the last bill—the 2012 bill—that we're still awaiting the results on, and now there's a national process. This is not a Manichean area. There are always unintended consequences of changes that are made and that we work in. How do you see the review, the new piece of legislation and what's happening federally working together here?

RACHAEL WARD: It's going to take coordination. I'll address the bill firstly. As you identified, that has provided a significant change in terms of the Office of the Children's Guardian, and that will have an immediate impact, I would say, from September. The ability for a person applying for a check or wanting a review of a decision will no longer be able to go to NCAT [NSW Civil and Administrative Tribunal]. That appeal process will be set up within the OCG as a new function. That's not to say that we don't already have that ability. Across some of our directorates, we do have an internal review process. It's just going to be set up now for Working with Children Checks. Separate to that was the discussion paper which I think you're referring to: the already planned review of the Working with Children Act. The discussion paper was due to go to the public in September/October.

That has been put on hold, pending the outcome of this current bill, for proper community consultation and change management. To have proper impact into that—of what changes should be in place—I think we need to know exactly what an internal review will look like. That paper is expected to go out, with the proposed changes, and for comment, in November.

Ms LYNDA VOLTZ: Shouldn't that paper reflect how the last Act operated? It's not reliant on the new bill.

RACHAEL WARD: It will do both. It will incorporate both, because that new bill should be enacted during September.

Ms LYNDA VOLTZ: I understand that, but the review is about how the last Act operated, not the new Act.

RACHAEL WARD: Yes, the discussion paper has that section which will discuss the old Act, but it will also have the proposed changes for people to be able to comment on as well.

Ms LYNDA VOLTZ: I just want to go to your internal review process, because I think there are concerns here about—if you've already had an internal review process and there's no appeal, how does that work? Some of the examples—and I know Stephen Lawrence will probably want to jump in later. But I had a person—during towards education and Julia Gillard—who was a builder, and he got a COLA contract. As a 16-year-old he got a 15-year-old pregnant and they had gone on to get married. He didn't even know he had a conviction, and that contract was removed from him because he wouldn't meet the Working with Children threshold.

RACHAEL WARD: Yes.

Ms LYNDA VOLTZ: You're getting these unintended consequences coming through. Given the removal of NCAT, how do you deal with those kind of situations?

RACHAEL WARD: The discretion will still remain in any internal review function. The test will be something like exceptional circumstances—that a check may be able to be granted in exceptional circumstances if there has been significant change since the decision, the charge or whatever is enabling it to go to a risk assessment. It won't be a blanket, "You've come in, it's no, and there's no process to go to." That review process will require risk assessment and a records review.

Ms LYNDA VOLTZ: Do you want to jump in on Working with Children Checks, Stephen or Scott?

The Hon. STEPHEN LAWRENCE: I did have a few questions about the Working with Children Check internal review. Ms Ward, am I understanding your evidence correctly that, up until now and the proposed legislative changes, there hasn't been an internal review process for Working with Children Check refusals?

RACHAEL WARD: That's correct.

The Hon. STEPHEN LAWRENCE: Without pre-empting the issues paper too much, can you talk us through what your thinking is, in terms of what that internal review process might look like, on the assumption that the merits review is removed by the legislation?

RACHAEL WARD: I would see that it would have to be a system that's set up robustly, that's procedurally fair for applicants, that's very clear, and for the processes and application forms—for somebody to be able to apply for review, firstly. Secondly, it's going to be independent from the decision-maker that originally made the decision. The idea is that it'll be a centralised team with a combination of skills—both in administrative law, risk assessment, child protection experience—to be able to fulsomely reassess those decisions that were made.

The Hon. STEPHEN LAWRENCE: What was your reference before, when Ms Voltz was asking you a question, to exceptional circumstances? Is that a proposed part of the new internal review?

RACHAEL WARD: Yes.

The Hon. STEPHEN LAWRENCE: What would that look like in a circumstance, for example, where a person has been refused internally and the person's contention is just that the decision was not appropriate and that a different decision should have been made on an internal review? What would an exceptional circumstances test look like? Would the person need to simply say that the decision should be changed, or would they need to point to something exceptional about their case? I ask that because exceptional circumstances tests can sometimes be a bit of an overlay on the statutory test and do a bit of injustice in the sense that they can direct the decision-maker's mind not to whether a particular statutory test is met—for example, real and appreciable risk in this context—but rather divert attention to whether there is something exceptional about the case, which might not be really the statutory question, if you know what I mean.

RACHAEL WARD: Yes. Any decision will have to be made in line with the statutory test, as you've said—a real, appreciable risk. In terms of the way it will be set up, it will be similar to NCAT. At the moment, when NCAT receive an application, an applicant will generally have turned their mind to "What else can be considered for my application to have a different result?" Sometimes that's timing. Sometimes there's a passage of time that goes past, that further information comes to light, or they may not have answered certain queries during the course of the original decision being made, and then it comes to light later. "I should have provided that, and I might have had a different outcome." That would be no different for the internal review process.

The Hon. STEPHEN LAWRENCE: I'm not sure if this is a fair comment or not, but it sometimes seemed to me, as a lawyer who practised a bit in this area, that when administrative decision-makers make decisions knowing that a merits review is available, they can sometimes have a tendency, at the first rung of decision-making, to err on the side of caution because they know that merits review is available and ultimately the tribunal is going to make the final decision. Do you see it as important, where the merits review is not available, that decision-makers have a very firm understanding of the finality of their decision and also the importance of the competing interests at stake? Because obviously the protection of children is paramount and really, really important, but on the other side of the equation, so too is people's capacity to engage in the workforce, engage in volunteer groups, engage in community groups. I'm wondering what you might do to ensure that your decision-makers have a really keen understanding of both of those sometimes competing considerations.

RACHAEL WARD: I agree. I would say that our current decision-makers within the Working with Children Check team already have that concept and that conception, so they really feel the weight of a decision, knowing that it will affect somebody's employment. It's not a decision that's made lightly. It's a decision that they really do work through the risk assessment process: firstly, prioritising the needs of a child, of course, but secondly, what is the impact of this decision? I would say that would be enhanced within an internal review team. The other way that I think that we could strengthen the transparency around the process is, whilst we're not a lawmaker, there is no reason why we couldn't publish—I'll use the word "publish"—some of our decisions. They would be anonymous, but perhaps some reasons for the decision. That would also assist people, in actually applying for their own review, as to what factors are taken into account.

The Hon. STEPHEN LAWRENCE: In terms of the personnel for these internal reviews, are they going to be people that are permanent, ongoing employees of your office? Or are you looking at the possibility of external people to ensure an appropriate level of objectivity and so forth?

RACHAEL WARD: Yes, a combination. I think to start the internal review team, we're really going to draw on our internal expertise but do some external recruitment. Part of the bill does amend—the Children's Guardian has always had the ability to have an external advisory panel, in relation to issues. That has been amended now so that the Children's Guardian can have an expert advisory panel to consult upon for individual matters. I see that being crucial, in terms of decision-making, for an internal review team—that we will be able to draw on some expertise from a psychologist and domestic violence or cultural support to make an informed decision.

Ms DONNA DAVIS: Moving to the Child Safe Scheme, what are your key reflections on the implementation of the Child Safe Scheme and the uptake of the Child Safe Standards across sectors? What trends, challenges or improvements have you observed?

RACHAEL WARD: Can I preface this by saying I've been there since March?

Ms DONNA DAVIS: That's fair enough. It's not only you. If Larissa has anything she'd like to—

RACHAEL WARD: I'm sure my team will have some observations. Can I say this? It has been incredibly rewarding to learn about the Child Safe Standards in more detail, and watch the dedication of the team when they engage with, particularly, our external stakeholder and prescribed agencies. I would say the Scheme has matured the last 12 months, particularly in having the e-learning, the roadshows, and the consistent messaging, in terms of what is required, and that engagement has gone a long way to build that public recognition of what it means to be a child-safe organisation. From my point of view, I think now we're at the point of maturity where we should be moving forward and looking at the other powers that are within the Child Safe Scheme. It's always been a light touch—regulatory—which I think has its place, and we absolutely should continue that, but there are those elements of compliance. I think for the next 12 to 24 months, that's an area that we should move to—actually checking that the Standards are being adhered to. We do that now through active monitoring, but that next step, of really working with an agency to make sure that they are, that really auditing function, is where we need to move to.

Ms DONNA DAVIS: Do you feel that it's touching all of those organisations within our communities that are having regular contact with children? Do you think there's more to be done to expand that list of organisations?

RACHAEL WARD: I think our e-learning has gone a long way. The engagement with our e-learning platforms is incredibly high; I'm sure one of my colleagues will find the figures for me. That has reached more than anticipated, as well as the engagement with the our self-assessment tool. There's now an online tool that any organisation can go in and check themselves against. That is something that we register. It has had, in the last 12 months, 10,107 completions from child-safe organisations.

Ms DONNA DAVIS: With those roadshows, what format do they take?

RACHAEL WARD: Presentation format.

Ms DONNA DAVIS: And how are you presenting? Are they being presented to specific groups, or are they more wide in the community?

RACHAEL WARD: Both. They will go to our bigger government organisations—DCJ [Department of Communities and Justice], Department of Education, Health, Office of Local Government, Office of Sport, and childhood and Custodial Services. That is one cohort of government agencies where we provide the resources, we train at that high level, and then the expectation is that they train down. For the roadshows, when they go out to communities, the team travels around New South Wales regional towns. It'll be held at the local PCYC; it could be held at a big venue at Penrith. That has a mix of people come. It will be people from the early childhood sector, the Department of Education. It may be family day care centres. Any number of sporting groups is another one—the local sporting groups. They will attend, and the presentations take the form of individual presentations done by the child safe trainers on each of the standards. It's an interactive PowerPoint presentation with the lead trainer leading the room. There are some collaborative exercises as well, particularly around recruitment.

Ms DONNA DAVIS: Do tutoring colleges fall into the categories? That might be something you may not know off the top of your head. When I say tutoring—tutoring colleges of all ages. We have tutoring colleges now that are even for preschoolers.

RACHAEL WARD: I am sure that is a part of the amendments to the Children's Guardian Act, but I might take that on notice. I can get the specific section for you and when that is going to be enacted.

Ms DONNA DAVIS: The annual report highlighted funding constraints for implementing the Scheme. Can you elaborate on how these constraints are affecting the rollout?

RACHAEL WARD: I can only speak since March but, from what I can see, the team have very cleverly pivoted to having these online platforms, webinars, podcasts, to enable them to capture as many people as they possibly can using the one resource. It's been incredibly powerful. So they have been able to work within the budgetary constraints.

Ms DONNA DAVIS: If you've got any other statistics or things you want to share, I'm sure we can table that.

RACHAEL WARD: Absolutely.

Dr AMANDA COHN: I wanted to come back to one of the Chair's earlier questions about staff recruitment and retention. I appreciate your attrition rate has been fairly stable, but there were some very concerning results out of last year's People Matter Employee Survey, particularly with nearly half of employees indicating they might apply for new roles in another public sector organisation. In your answer to the Chair, you talked about the corporate strategy that you're putting in place. Can you talk us through some of the detail of what actions there are under that plan?

RACHAEL WARD: Really focused on staff wellbeing—as you can appreciate, a lot has been focused at the moment on just the wellbeing factors, considering that the staff are going through an inquiry at the moment. That in itself has been a factor that the Office of the Children's Guardian has welcomed. They want change and that certainly, I think, has gone some way to ease their mind that change is coming, which has allowed them to focus on what they need to. But wellbeing—with EAP [employee assistance program] support, wellness sessions—has been the focus of our office at this time for this period. Certainly, my brief, when I was brought in and appointed, was to try and keep it as business as usual, which I have tried to do for the most part. But I think consistent decision-making, as well as a focus on wellbeing, has helped staff feel that there's a way forward.

Dr AMANDA COHN: I certainly appreciate that you're only acting in this role at the moment. In particular in that People Matter survey, there were some negative and decreasing results for things like communication around change and opportunities for input or genuine consultation with staff around change.

You're obviously in a change period at the moment. What has happened to communicate that clearly to staff and provide them with meaningful opportunities for input?

RACHAEL WARD: I communicate regularly and often—probably maybe too much. I do email and talk to and meet with the staff regularly. We have all-staff meetings. We have those collaborations of showcases of the teams. We're encouraging a lot of that casual engagement with each other.

Dr AMANDA COHN: It sounds like that focus is on engagement and wellbeing. But, as part of this change process, if staff have serious concerns about their current or former managers, or they want to have input into this change process, are there any formal pathways for them to feed into what's happening?

RACHAEL WARD: At the moment I very much have an open door policy. Staff, I would say, feel very comfortable to come to me, but it is very much at the moment—people are waiting to see the outcome and the recommendations from the inquiry. We're committed to waiting for those recommendations and working through them.

Dr AMANDA COHN: Just on one other topic, other members know that I live in Albury-Wodonga, so I've got a bigger interest than most in interjurisdictional issues. This Committee has looked before at the issues with information sharing between other states and territories. Has there been any progress on that work?

RACHAEL WARD: At the moment, you might have seen—I'm sorry, I didn't answer Ms Voltz's question fulsomely before, when she asked about the national reform work. That is exactly what's on the table at the moment. The Commonwealth government has committed to having—I'm going to call it a strike force.

ALEXIS BRADSHAW: Taskforce.

RACHAEL WARD: A taskforce, yes—that's what they're called. Thank you, Alexis. A taskforce to refocus and draw together the states, to tackle this first issue of, how do we share information between states? New South Wales does have the ability to share information with other states, quite robustly. That's not the same for other jurisdictions, so urgent legislative reform, I think, would be required. But in the meantime, if we can get some protocols working between the states, New South Wales are fully supportive of that.

Dr AMANDA COHN: Is there a time frame on that national work?

RACHAEL WARD: I think by the end of the year they're hoping to have a very clear road map.

Dr AMANDA COHN: Do you know if the Office of the Cross-Border Commissioner has been involved at all?

RACHAEL WARD: I would have to take that on notice.

The Hon. SCOTT BARRETT: I've just got a couple of questions about out-of-home care, if that's okay. Have we got some stats around the number of kids in New South Wales that are currently housed in out-of-home care?

LARISSA JOHNSON: DCJ [Department of Communities and Justice] holds those records, but it is around 14,000. We can come back to you with that.

The Hon. SCOTT BARRETT: And do we have a breakdown—I'm not sure what sorts of zones or regions you work in—as far as where those kids are homed?

RACHAEL WARD: DCJ would have that figure. That's not a statistic we hold.

The Hon. SCOTT BARRETT: This might send me up a very dry gully, but are you aware how we're going for capacity? There are 14,000 kids, roughly. Do we have more opportunities to place kids, or is there a waiting list for out-of-home positions, for want of better terminology?

LARISSA JOHNSON: There are currently 86 accredited organisations, and that covers off both foster care, residential care, and adoption services. All children in New South Wales are placed with an accredited agency. You will be familiar with the ban on ACAs [alternative care arrangements], which is where children were able to be placed outside of accredited organisations. In terms of the contracting, that's obviously DCJ's responsibility, in terms of numbers of children that go to various agencies. But, as I understand it, the children in out-of-home care are placed with accredited agencies.

The Hon. SCOTT BARRETT: Are there enough positions? Are there enough agencies to manage the load?

LARISSA JOHNSON: Yes, there are currently enough agencies. Having said that, one of our key roles is accrediting new agencies, so there are always a number of agencies being accredited. We do prioritise

Aboriginal agencies, understanding the importance of the transition of Aboriginal children and young people to be in Aboriginal community-controlled organisations. In terms of, are there enough, there are currently children placed in accredited organisations. Obviously, there's a strong drive to keep children at home where they can be kept at home, rather than bringing them into out-of-home care. But, having said that, we do have a number of accredited agencies that have a small number of children, where there would be capacity for them to grow.

The Hon. SCOTT BARRETT: Is the intent to house those kids as close to home as possible—like, where they're from?

LARISSA JOHNSON: That is always the intention.

The Hon. SCOTT BARRETT: Are there often instances where it's better to take them away?

LARISSA JOHNSON: Yes, it does always depend on the individual child but, generally, it's very important for children and young people to remain close to their connections. That includes their biological families, their schools, and the health services that they're used to, and that is a real focus within out-of-home care. As you would know, we regulate with specific standards. Part of what we look at in standards is that connection—how is connection maintained? If children need to move away from where they're from, there's still very much a focus on how those connections can still be maintained in that context.

The Hon. SCOTT BARRETT: That 14,000, is the general consensus that that number is going up or down?

LARISSA JOHNSON: There has been a downward trend, in terms of children and young people entering out-of-home care.

The Hon. SCOTT BARRETT: I'm not sure whether we can get those stats provided, but can that also include some trends with that as well?

LARISSA JOHNSON: Sure. As I said, they are numbers that DCJ hold, but we'll be able to provide that to you, or link you to the appropriate area that can provide the detail to you.

The Hon. STEPHEN LAWRENCE: Ms Ward, I want to ask a few questions about compliance and regulation types of issues. Are you able to talk us through the notification process of your office when a person is charged or found guilty of a schedule 1 or schedule 2 offence, in terms of the timeliness of it, and the practicalities of how notification occurs?

RACHAEL WARD: I'm assuming you're talking about when somebody has a cleared Working with Children Check—they're working with children, and how does that work? Once somebody has a Working with Children Check and they are cleared to work with children, their details remain within our system and within the ACIC [Australian Criminal Intelligence Commission] system. That is a real-time notification database which links directly to our Working with Children Check system. That updates all day, every day. If somebody is charged with a schedule 1 or schedule 2 offence, we are immediately notified of that, and can take the appropriate action. Connected with our compliance action, though, is not just charges. We also get notifications of criminal actions, as well as workplace conduct records, which does differ us from other states. That can be taken into account in any records review and further risk assessment of whether or not somebody should be holding a clearance.

The Hon. STEPHEN LAWRENCE: In terms of the system for workplace conduct types of issues for organisations that checks and compliance apply to, how does that work? For example, is there an automatic trigger when, in a relevant organisation, a relevant investigation commences? Is it discretionary, or how does it work?

RACHAEL WARD: I might get Alexis to answer that question.

ALEXIS BRADSHAW: The Reportable Conduct Scheme sets out certain conduct. If that is what the allegations are based on, they must be reported to the Children's Guardian reportable conduct directorate. There is a seven-day notification process. At the point of receipt of those allegations, they must be notified to our office. If, in assessing the information they've received, our reportable conduct team is of the opinion that this individual may pose a real and appreciable risk to children, they can refer that immediately to the Working with Children Check team for consideration of an interim bar. There are often instances when the conduct may be criminal conduct and may be subject to a police investigation. In circumstances such as that, police will often ask that we hold off on taking action whilst they finalise their proceedings.

We certainly wouldn't want to have an adverse impact on any active investigations being undertaken by police. Once police have finalised their actions, they may result in charges. Those charges, as Ms Ward has said, will be released to the Working with Children Check in a real-time format, so that Working with Children Check would receive notification of those charges, and can take appropriate action. If the police investigation results in no charges being laid, then the reportable conduct investigation would commence by that employer, oversighted

by the reportable conduct directorate within the OCG. As I said, an interim bar, action from the Working with Children Check, can be taken at the point of allegation. We do not need to wait until charges are laid.

The Hon. STEPHEN LAWRENCE: In terms of compliance, how effective is the reportable conduct system working? When you do your spot checks and the like, or work on the basis of complaints, how often are you finding that reportable conduct in relevant organisations is not being reported within seven days?

RACHAEL WARD: I might have to take that question on notice, that specific. In terms of compliance action, I do have some figures. Would you like me to read some of the figures from 2024-25 to give you a concept of how many?

The Hon. STEPHEN LAWRENCE: Sure, thank you.

RACHAEL WARD: For our compliance investigations, organisations and individuals are targeted for investigation following receipt of allegations, referrals, or reports of concern from members of the public. As a result of the investigations conducted in 2024-25, 53 of the 119 investigations resulted in findings that the organisation was compliant with their obligations, 22 organisations were found to be noncompliant and were issued with warning letters or reminders, and seven organisations were fined for serious noncompliance. We issued 19 fines across seven organisations for failing to comply with the Working with Children Check Act. The remainder of the investigations found that the employer was outside of the jurisdiction, or there was insufficient information to substantiate the allegation. Can I just add—

The Hon. STEPHEN LAWRENCE: Those instances of noncompliance are not necessarily not reporting reportable conduct. It could be other things in terms of not checking if someone's got a clearance, for example, as well.

RACHAEL WARD: Exactly right. As of 30 June, there was 2,000,263 clearance holders in New South Wales, and 28 per cent of those applicants were unverified. In order for the verification system and compliance system at the OCG to be as strong as it possibly can, employers need to verify. They are legislatively required to do so. That is the way we can track when somebody is working in child-related employment. If we do, as we described, get one of those hits from the system, then we can contact the employer immediately. Verification is the strength.

The Hon. STEPHEN LAWRENCE: Yes, absolutely. Do you have statistics on how many people with a Working with Children Check clearance have committed schedule 1 or 2 offences during the duration of their clearance?

ALEXIS BRADSHAW: We do have that figure. Just one moment.

The Hon. STEPHEN LAWRENCE: Sure.

ALEXIS BRADSHAW: In the year 2024-25, the last financial year, 7,531 individuals who held a clearance in New South Wales were charged with offences that the Working with Children Check reviewed. Not all of those would have been schedule 1 or 2 records. Our law part code list that we have with New South Wales Police extends beyond those schedules, which enable us to ensure that no relevant record is missed by our agency.

The Hon. STEPHEN LAWRENCE: In terms of that cohort of people—the people committing criminal offences during the period of their clearance—do you know, even roughly, how many of those are we talking about criminal conduct that is being committed while working with children and doing the things that the check clearance allowed them to do?

ALEXIS BRADSHAW: We don't have that data. Anecdotally, because of the nature of the charge being a criminal charge, it is typically conduct which has occurred outside of the workplace.

The Hon. STEPHEN LAWRENCE: Outside of the workplace?

ALEXIS BRADSHAW: Outside of the workplace.

The Hon. STEPHEN LAWRENCE: Do you have an idea of the rough percentage? Would we be talking about 80 or 90 per cent that is not work related? Would it be lower, or do you not have a sense of it?

ALEXIS BRADSHAW: I might take that question on notice.

ALEXIS BRADSHAW: We would also have to look at the volume of referrals from the Reportable Conduct Scheme or via chapter 16A from prescribed bodies.

The Hon. STEPHEN LAWRENCE: Do you have a sense of what percentage, roughly, of that cohort does the investigation that ensues as a consequence of the offending reveal that the clearance was granted

incorrectly? When I say "incorrectly", I mean granted in circumstances that, at the time, were or should have been subject to referral and should have led to refusal.

ALEXIS BRADSHAW: Each decision made by the Working with Children Check is based on the information holdings at the time. If, in the event that there is information received subsequent to the date of decision, that decision can be reviewed. In terms of specific examples where information was—I can't recall an instance where there have been times when we have not considered appropriately information held by our agency in making a decision.

The Hon. STEPHEN LAWRENCE: I appreciate that this might not be information that you hold, but how many cases have you had where someone has been granted the Working with Children clearance on merits review in the tribunal and where they've gone on to engage in either relevant criminal offending or reportable conduct?

RACHAEL WARD: We'd have to take that question on notice.

The Hon. SCOTT BARRETT: Just a little bit more data for my purposes, as far as the Working with Children Check goes, I presume you also track the purpose—whether it is work related or whether they're part of volunteer organisations. Can I get a breakdown of what that might be? How many people are doing this for volunteer purposes versus work?

RACHAEL WARD: We'll have to take that on notice. We've got the total number, but I don't have the breakdown between volunteers and paid worker checks.

Ms LYNDA VOLTZ: Would you have that, though, for the 7,000 that you found to have had an offence? Did you have a breakdown between those for whether that was for employment purposes or volunteer purposes?

ALEXIS BRADSHAW: We'd need to take that on notice as well.

Ms DONNA DAVIS: Alexis, you were talking before about the Working with Children Check and the verification—it might have been you, or it might have been Ms Ward. You were saying that the data that you provided depended on whether or not they'd been verified, because you only had the records of those employers that had verified. What are the triggers to ensure that employers are doing the verification of the Working with Children Checks and updating it?

ALEXIS BRADSHAW: A person doesn't need to be engaged with a child-related employer to apply for a Working with Children Check. Often they are, and that is the purpose for which they've applied. They've been asked to apply. But sometimes it's because they're job seeking, or they're anticipating that they may want to job seek in the future.

Ms DONNA DAVIS: Sorry, I maybe didn't phrase my question properly. What I wanted to know was, for those people who have a Working with Children Check and are employed, isn't there a verification where the employer then needs to register them? What is the trigger for them to do that registration?

ALEXIS BRADSHAW: At the point of recruitment.

Ms DONNA DAVIS: Are there any checks and balances in that? You said there were so many that hadn't been verified. Is that because they're volunteers and they're not actually in a position?

ALEXIS BRADSHAW: It would be the same for whether or not it's a paid application or volunteer. Paid applications don't necessarily mean the person is engaged with a child-related employer.

Ms LYNDA VOLTZ: Are those verifications done across volunteer organisations as well as businesses? Some of those figures may have been volunteer organisations. Is that what you're saying?

ALEXIS BRADSHAW: Yes. It's a legal requirement for all child-related employers, whether that's a voluntary position or a paid position, to ensure that that worker holds a Working with Children Check application or clearance.

Ms LYNDA VOLTZ: So your local soccer club could be one of those ones that had a noncompliant—

ALEXIS BRADSHAW: Possibly, yes.

The Hon. STEPHEN LAWRENCE: Going back to the Working with Children internal review process, a thing that I noticed as a lawyer in this area before being in Parliament was the role of psychological reports in the Tribunal, in terms of working to assist the Tribunal to properly assess risk factors and apply that very difficult test. Also, sometimes a Tribunal member on a panel might be a psychologist as well. That's not too uncommon. I'm wondering, in terms of your internal processes and augmented internal review process, is there a role for that

sort of expert advice and a psychologist either on staff or consulted on this question? Because it seems to me that often there are quite complex issues.

For example, one that I know arises reasonably commonly is an applicant with a history of violence as an adult against an adult or adults, and then the decision-maker having to decide whether the particular context of that offending, i.e. against an adult, means that there might still be an appreciable risk of violence in relation to children. Whereas in some cases it might be that the previous violence is so different, not least in that context, that there might not be an appreciable risk in respect of children in a workplace or volunteer context. I'm wondering about the role of that sort of expertise in house. Is that going to be something that is there? Is that already there?

RACHAEL WARD: It's not already there, but it's likely something that will be leveraged from the expert advisory panel. The very intention of the change to the legislation is that we are able to employ a person for that purpose, or consult with, at least.

The Hon. STEPHEN LAWRENCE: Will there be a capacity in internal review for the applicant to put forward their own evidence and also to have the opportunity to scrutinise the opinion being put forward by the expert panel person and challenge it? It's not going to be a full tribunal; I have accepted that. But is there going to be some capacity for an exchange of ideas in that respect?

RACHAEL WARD: Absolutely. That's how I'd envisage a collaborative approach. It is how it works within the system now with the risk assessors in the first instance. A risk assessor will quite often engage with a psychologist that the applicant has put forward on their behalf, and we will now have those discussions. I imagine that will only be strengthened through our internal review process.

The Hon. STEPHEN LAWRENCE: In terms of your current decision-making processes, are you able to explain where in the organisation the first-instance decision-makers are at? How does that interplay with their superiors? Are the first-instance decision-makers submitting draft decisions to an SES-level person, who then reviews it and ticks it off? Or is it solely the prerogative of the first-instance decision-maker?

RACHAEL WARD: I'll let the Director of the team, who works with it day in and day out, answer that.

ALEXIS BRADSHAW: Decisions made within the Working with Children Check team as to whether or not to clear or refuse a person are guided by our legislation. Decision-making can be undertaken at our records review stage, where we have assessed that perhaps the criminal history we've received would not be relevant to whether or not someone is suitable to work with children. So decision-making is taken at that stage. The sorts of offences may include driving offences—low-level offences. If a matter is referred to a risk assessment, any decision that is made at that point is subject to multi-layer review.

We have a team of risk assessors who make recommendations on decisions. They are reviewed by their team leader. Decisions on whether or not an interim bar should be imposed are recommended by a risk assessor, reviewed by their team leader, but submitted to the Director for final decision. Similarly, if a matter is proposed as a refusal or a cancellation of a clearance, that is, again, recommended at the risk assessment stage. It is reviewed and endorsed by the team leader, and it is then referred to the Director for the final decision.

The Hon. STEPHEN LAWRENCE: What are the organisational levels in the public service classifications of the team leader and the director?

ALEXIS BRADSHAW: The team leader is a clerk grade 9/10, and the Director is SES 1.

The Hon. STEPHEN LAWRENCE: How will the augmented internal review work in terms of its relationship to the Director?

RACHAEL WARD: It won't; it will be separate. It'll have a separate Director, with a separate team, to enable that independence—whilst having to have the same processes, in terms of risk collaboration and assessment processes, to ensure that the same tests are applied, of course. But it will be a completely separate team and line of decision-making.

The Hon. STEPHEN LAWRENCE: Will that ultimately be vested in an SES band 1 person as well, a Director-level person?

RACHAEL WARD: Initially, but the hope in any functional review of the OCG is that the Aboriginal Assistant Guardian or Assistant Guardian position would be the likely place for a team like that to sit under, being an SES 2.

The Hon. STEPHEN LAWRENCE: Will that process be similar in the sense that you'll have this expert panel and they'll make a recommendation, and then the SES person will ultimately approve or reject that recommendation?

RACHAEL WARD: Exactly. I have a clarifying point for Dr Cohn, if she's still online.

Ms LYNDIA VOLTZ: If you give it to us, she'll get the transcript, anyway. If you want to tell us what it is—yes.

Dr AMANDA COHN: I'm here.

RACHAEL WARD: Sorry, you just weren't on my screen. It was in relation to the update from the PMES results and where do staff go: I neglected to say that the OCG, prior to 2023-24, didn't have an ingrained grievance policy and procedure. The OCG now has a grievance policy, which clearly outlines the track that staff need to take, in terms of making a complaint or grievance.

The CHAIR: All right. I think that concludes any questions that we may have. Thank you for appearing before the Committee today. You'll each be provided with a copy of the transcript of today's proceedings for corrections. The Committee staff will also email any questions taken on notice from today and any supplementary questions from the Committee. We kindly ask that you return those answers within 14 days, if that's okay. I'd like to place on record my thanks to all the witnesses for appearing today. I also thank Committee members, Committee staff, and the Hansard and AVB teams for their assistance and conduct of the hearing. Thank you, everyone. That concludes our public hearing today.

(The witnesses withdrew.)

The Committee adjourned at 11:10.