

Agency Information Guide

Published in accordance with section 20 of the
Government Information (Public Access) Act 2009

November 2024

www.ocg.nsw.gov.au

1. Introduction

The Office of the Children's Guardian (OCG) is committed to regulating and overseeing organisations to uphold children and young people's right to be safe. We influence and lead change by building capability in organisations to be child safe.

The OCG supports the objects of the *Government Information (Public Access) Act 2009* (GIPA Act) to maintain and advance a system of responsible and representative democratic Government that is open, accountable, fair and effective by making government information publicly available, unless there is an overriding public interest against disclosure.

We acknowledge that Agency Information Guides (AIGs) play an important role in promoting access to information, supporting participation and contributing to open government. As government transforms service delivery through the application of digital technologies, information should generally be more readily accessible to citizens. New ways of storing, locating and providing information become available through digital technology and agencies have new opportunities to uphold their responsibilities to make information available.

This AIG is published in accordance with section 20 of the GIPA Act and provides a mechanism to make government information accessible, promote currency of information and appropriate release, and support the management of government information as a strategic asset.

The purpose of this AIG is to provide general information about the OCG on:

- structure and functions
- ways in which our functions, including decision-making, affect members of the public
- specific arrangements in place to enable members of the public to participate in the formulation of OCG policy and the exercise of our functions
- kinds of government information we hold and make publicly available
- how we make government information publicly available
- kinds of information that are made publicly available free of charge and those kinds for which a charge would be imposed.

Where appropriate, we have provided links to documents, reports, data and other information throughout this AIG.

This AIG is reviewed at least every 12 months and is available from our website at www.ocg.nsw.gov.au. We value your feedback on this AIG to ensure that we achieve the highest levels of accessibility. You can provide feedback to us by calling (02) 8219 3600 or emailing ocg@ocg.nsw.gov.au

2. About the OCG

2.1 About us

The OCG is a separate statutory agency within the Stronger Communities Cluster of the NSW Government.

Our primary role

- We regulate and oversight organisations which work with children for the purposes of embedding child safe practice.
- We ensure out-of-home care agencies meet essential standards in relation to the care they provide.

- We administer worker screening checks to identify those who should be prevented from working with children and people with disability.

Our strategic priorities

- Being a model administrator and oversight body
- Increasing awareness and building capability
- Shaping policy and practice
- Improving First Nations outcomes
- Enhancing collaboration
- Supporting our people

Our values

We are guided by our values of integrity, trust, service, accountability, respect and empathy.

More information about us is available in the About us section on the OCG website.

2.2 Our functions

The Children's Guardian's principal functions are defined in section 128 of the *Children's Guardian Act 2019* (CG Act).

Child Safe Organisations

The Child Safe Scheme is a significant reform to child safety in NSW and provides an overarching framework for the operation of our functions under the CG Act.

The 10 Child Safe Standards were recommended by the Royal Commission into Institutional Responses to Child Sexual Abuse. These standards provide a framework for organisations to create, maintain and improve child safe environments by building child safe cultures and improving child safe practices to prevent harm and abuse from occurring.

The scheme has been in place for more than 2 years, and monitoring, assessment and compliance powers commenced in February 2023.

Organisations captured under the Child Safe Scheme must implement the Child Safe Standards and be proactive about protecting children from harm. We assess and monitor organisations' compliance with the scheme, to make sure organisations are implementing the Child Safe Standards.

Building organisations' understanding of the Child Safe Standards is the foundation of the Child Safe Scheme, and the OCG supports organisations to build this capability by providing ongoing sector support, resource development and training.

The OCG is also responsible for regulating organisations that employ children in the entertainment, exhibition, still photography, modelling and door-to-door sales industries to ensure that children's welfare is protected while they are working.

Out-of-Home Care Regulation

The OCG is responsible for accrediting and monitoring government and non-government agencies authorised to provide statutory out-of-home care to children and young people across NSW. Our role is to protect and promote the safety, wellbeing and welfare of children and young people who have been placed in out-of-home care through the accreditation and monitoring of agencies.

The OCG regulates adoption services in NSW. Non-government agencies that offer adoption services are required to be accredited, and all agencies are required to meet specific adoption standards and comply with legislative requirements.

The OCG also manages the Carers Register and Residential Care Workers Register. Both registers assist in the selection and probity assessment of carers and residential care workers. Information collated from the registers informs our out-of-home care accreditation and monitoring process work. They are important in preventing unsuitable people from moving between services.

Reportable Conduct

The Reportable Conduct Scheme oversees how certain organisations respond to serious allegations of criminal and other improper conduct relating to the treatment of children by their employees, and actions they take to prevent future harm to children in their organisation.

Where risks to children are identified, reportable conduct information may, where appropriate, be shared with the WWCC and other areas of the Office of the Children's Guardian to inform decision-making in the exercise of our education, compliance and monitoring functions. We may also share information with external parties in accordance with relevant legislation.

With the introduction of the CG Act, the scheme has been expanded to also cover religious bodies, in response to recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Under the CG Act, the role of the OCG in connection with the Reportable Conduct Scheme is to:

- provide advice and education to relevant entities to assist in the detection of and response to reportable conduct
- provide oversight and guidance on reportable conduct investigations and ensure the relevant entity takes appropriate action
- monitor the progress of relevant entities' investigations and conduct inquiries and direct investigations when it is in the public interest to do so
- monitor relevant entities' systems for preventing, detecting and dealing with reportable conduct and reportable convictions.

National Disability Insurance Scheme (NDIS) Worker Check

The Commonwealth's NDIS Quality and Safeguards Commission is responsible for safeguarding NDIS participants.

The requirement to have a worker screening clearance, and which workers require one, comes from the Commonwealth's *National Disability Insurance Scheme Act 2013*. States and Territories have agreed to perform the screening of NDIS workers, and the Commonwealth gives effect to these screening outcomes.

The NDIS Worker Check (NDISWC) in NSW is administered by a screening agency in the OCG and is performed in accordance with the *National Disability Insurance Scheme (Worker Checks) Act 2018*.

Working with Children Check

The Working with Children Check (WWCC) in NSW is a function exercised by the Children's Guardian in accordance with the *Child Protection (Working with Children) Act 2012* (WWC Act).

The WWCC is one of a number of tools that organisations can use to build a safe environment for children.

The WWC Act requires people who engage in paid or volunteer child-related work to hold a WWCC clearance or have a current WWCC application, unless an exemption applies. Unless exempted, it is an offence for a person to engage in child-related work without a current application or clearance.

The Children's Guardian is responsible for deciding whether to grant or refuse a WWCC clearance to a person who applies for a WWCC clearance, or whether to cancel the WWCC clearance of a person who holds a WWCC clearance.

The WWC Act provides that, unless exempted, employers must require child-related workers to hold a WWCC clearance or a current WWCC application and must verify and record clearance details of those workers.

We monitor employer compliance against the legal requirements with a focus on educating employers who have not verified their workers' WWCCs. Having verified workers' Checks with continuous monitoring is one of the strengths of the system.

Official Community Visitors Scheme

The child-related function of the Official Community Visitors Scheme transferred to the Children's Guardian with the commencement of the CG Act. However, as the Official Community Visitors Scheme covers both child and non-child related functions, the Scheme has been operated by the Ageing and Disability Commission (ADC).

By agreement, the Ageing and Disability Commissioner for the ADC carries out the role of the Children's Guardian in relation to Official Community Visitors under sections 144 and 146 of the GC Act.

Official Community Visitors are independent statutory appointees of the Minister for Families and Communities and Minister for Disability Services

Official Community Visitors visit accommodation services for children and young people, people with disability and people living in assisted boarding houses, throughout NSW. The Children's Guardian is responsible for making recommendations to the Minister for Families and Communities with regards to the appointment of Official Community Visitors.

2.3 Corporate support

We have corporate functions and obligations that we are required to fulfil including the effective and efficient management of:

- finances
- staff
- procurement
- assets
- annual reporting
- information technology
- legislative compliance
- corporate governance.

These functions are conferred on the OCG under a number of Acts. Some of the key Acts include:

- *Government Sector Employment Act 2013 – employment of staff*
- *Government Information (Public Access) Act 2009 – publication of certain government information and decisions regarding granting, or refusing, access to other information*
- *Privacy and Personal Information Protection Act 1998 – standards and requirements for collection, retention, access, alteration, disclosure and use of personal information*
- *Work Health and Safety Act 2011 – requirements for healthy and safe work practices*
- *Workplace Injury Management and Workers Compensation Act 1998 – management of injury and return to work*
- *Annual Reports (Departments) Act 1985 – requirements for annual reporting*
- *Government Sector Finance Act 2018 – management and administration of financial affairs*
- *Public Interest Disclosures Act 1994 – requirements for dealing with complaints under the Act.*

3. Organisational structure

We are a NSW public service agency under Schedule 1, clause 3 of the *Government Sector Employment Act 2013* (GSE Act). The Children's Guardian is appointed as agency head and reports to the Minister for Families and Communities in relation to the administration of the legislation relating to statutory functions. As the agency head, the Children's Guardian is responsible for the budget and the general administration of the OCG, including employing and allocating staff to carry out our work.

The Joint Parliamentary Committee on Children and Young People monitor the execution of the Children's Guardian's functions with respect to:

- the WWCC under the Child Protection (Working with Children) Act 2012 (WWC Act)
- the Reportable Conduct Scheme.
- out-of-home care (s. 37(1)(b)(iii), Advocate for Children and Young People Act 2014), and
- the Child Safe Scheme (s. 8AC, CG Act).

The Children's Guardian, Steve Kinmond OAM was appointed under the CG Act for a term of five years, commencing 16 January 2023.

The directorates which assist the Children's Guardian in the exercise of the OCG's functions are:

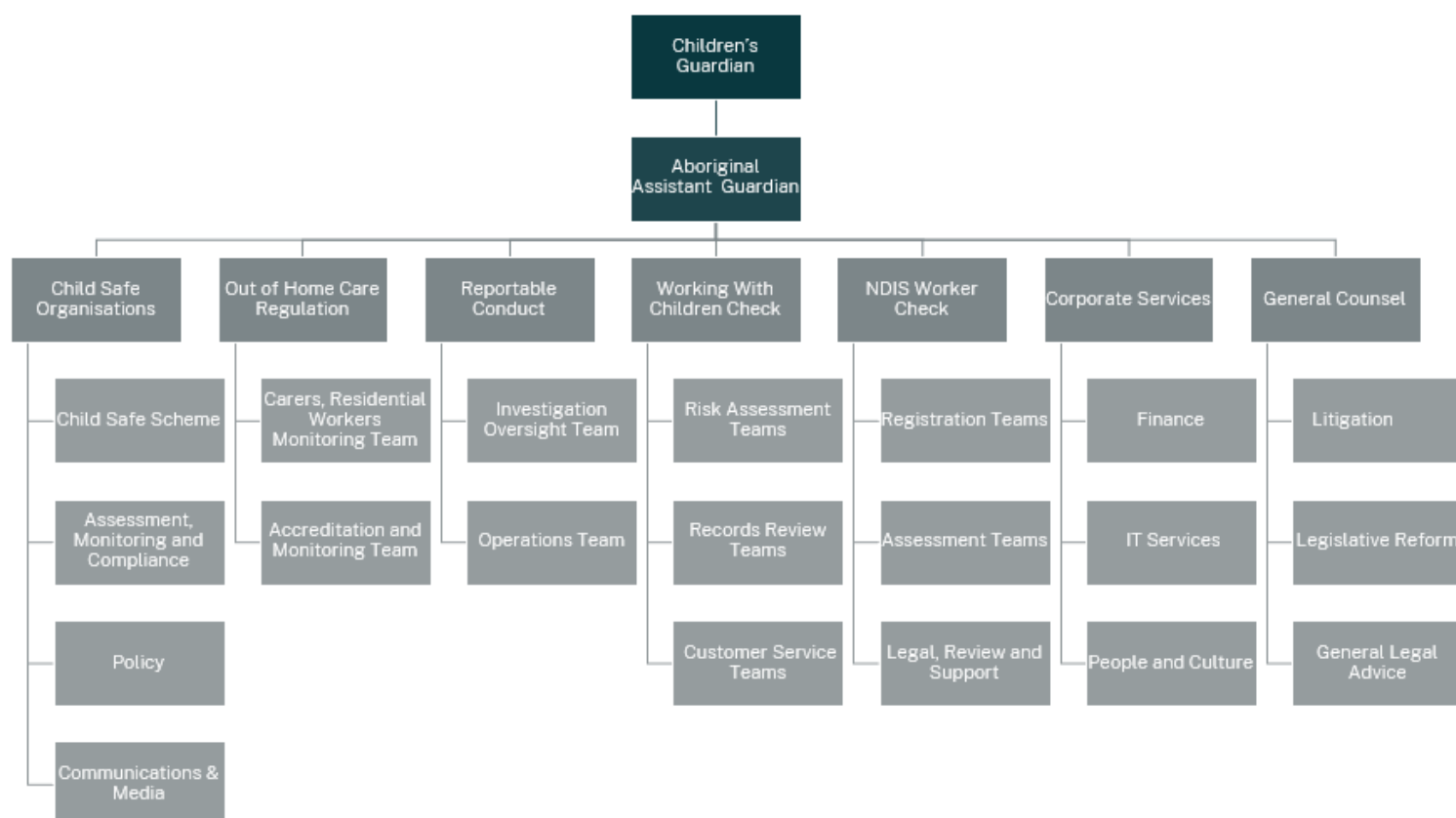


Figure 1: Organisation chart indicating functional responsibilities of each directorate.

3.1 Our contact details

For further information, you can contact us using the details below:

Post:	Locked Bag 5100, Strawberry Hills NSW 2012
Web form:	https://ocg.nsw.gov.au/contact-us#section-target-2
Website:	www.ocg.nsw.gov.au
NDISWC enquiries:	13 77 88
WWCC enquiries:	(02) 8219 3777
Switchboard:	(02) 8219 3600

4. How we engage with the public and our stakeholders

4.1 Our channels of engagement

We engage with the public regularly through a number of electronic channels, to provide a fast and easy way for the public to approach us, seek our assistance or provide us with feedback.

When considering any consultation with the NSW community, we consider what we are asking, why we are asking it, and who we want to ask. This informs which channel will be used to conduct the consultation or survey.

We use many channels to let people know when we are consulting publicly. We will provide the necessary information to understand the purpose of any consultation we do.

NSW Have Your Say

We use *Have Your Say* whenever we consult formally. *Have Your Say* is a website that enables NSW Government agencies to publicise consultations being conducted throughout the State. The site provides a central place for the public to search via their location and/or by topic to discover consultations that interest them. It enables them to share their views and ideas on Government plans to improve services, the economy and infrastructure in NSW. Information collected and maintained is in accordance with the privacy protection principles in the *Privacy and Personal Information Protection Act 1998* (PPIP Act).

Surveys

We conduct surveys to obtain the views of our stakeholders to inform our work. Survey results assist us to understand citizen's knowledge and awareness of our legislation, key themes and trends. This information is used to inform the development of resources.

OCG website

Our website is used to provide the public with resources and information about our regulatory functions and activities, awareness campaigns, submissions, events, policies, news and developments. Members of the public can use the Contact us section of the website to get in touch with us and provide feedback on our activities and functions. The website can be accessed at www.ocg.nsw.gov.au.

Social media

The OCG X (@nswocg), Facebook (NSW Office of the Children's Guardian), LinkedIn (ocgnsw) and Instagram (ocgnsw) accounts are used to share our news, information and events. Our social media accounts are monitored during office hours. Members of the public can join the conversation. However, we may not respond individually to all comments on posts that we receive via our social media accounts. Additionally, given the character limitation on Twitter, we may request that you contact us via our other channels to complete your enquiry.

Open data

We use our website – www.ocg.nsw.gov.au – to publish a range of operational data, including data about our out-of-home care regulation responsibilities. We proactively release open data for the public.

OpenGov NSW

OpenGov NSW is a website that allows NSW Government agencies to make information available to the public including annual reports and open access information released under the GIPA Act. We use this channel to publish annual reports, and to proactively release open access information for the public.

Consultation

The OCG may release discussion papers for consultation with relevant sectors to inform its policies and practice related to implementing our functions. For example, in 2021, we consulted with designated agencies, adoption service providers and peak bodies on a review of the Children's Guardian's accreditation and monitoring functions and the development of the sector-specific practice requirements that could support implementation of the 10 Child Safe Standards in the statutory out-of-home care and adoption sector.

Communities of Practice

We work with relevant community and organisational stakeholders through various Communities of Practice and other collaborative forums to support one another in developing strong responses to their obligations under the Child Safe Scheme and Reportable Conduct Schemes, and other child protection and safety schemes and programs.

4.2 Feedback and complaints about us

We welcome input and feedback from the public, community organisations and government agencies regarding our services and publications. We receive a range of diverse correspondence and complaints through a variety of channels including our website, emails, letters, phone calls and social media.

Members of the public are encouraged to provide feedback on our services and publications. This feedback is important to us and assists us to inform our policies and publications and improve our services.

We are committed to responding to feedback and complaints.

All feedback and complaints are dealt with confidentially and personal information is managed in accordance with the privacy protection principles in the PPIP Act. Further information about how we handle personal information is available in our [Privacy Management Plan](#). Further information about how we manage complaints that originate from outside the OCG is available in our Complaints Management Policy and Procedures.

You can provide feedback to us by calling (02) 8219 3600 or emailing ocg@ocg.nsw.gov.au

4.3 How to provide input to our regulatory activities

As an agency that administers NSW child safety legislation, a key part of our work is delivered through our regulatory functions and activities. These relate primarily to our assessment, review, complaint and investigative work.

We use a range of approaches to deliver the compliance activities we identify as necessary to achieve our regulatory objectives and to influence long-term cultural change. This involves examining processes and requirements to inform our regulatory activities and resources. Visiting organisations to regulate them, creates an opportunity for meaningful engagement with both

agencies and citizens. Our engagement is designed to be achieved through the mechanisms outlined in section 6.2 of this AIG.

5. Information we hold

We hold a range of information including:

- policy and planning documents
- documents on the internal administration of the agency
- internal working papers of the agency
- documents relating to assessments, reviews, complaints and investigations conducted by the Office of the Children's Guardian
- legal advices
- correspondence with NSW government agencies
- correspondence with the public
- correspondence with other jurisdictions
- guidelines and directions issued by the Children's Guardian
- submissions made by the Children's Guardian to parliamentary and other inquiries
- information resources for the community, public sector and private sector.

Information that we release as open access information under section 6 of the GIPA Act, or proactively release under section 7 of the GIPA Act can be accessed on our website at www.ocg.nsw.gov.au. If you have difficulties reading our documents or other material, please contact us on (02) 8219 3600 so we can provide other options for you to access our material.

If you cannot find the information you are seeking on our website, please contact us to assist you.

6. How to access our information

We keep records associated with our functions of reviewing agency decisions, providing advice and guidance to the public and regulated entities, as well as other non-regulatory functions.

We make information available under the GIPA Act in four ways:

1. as open access information (section 6 of the GIPA Act)
2. through proactive release of information (section 7 of the GIPA Act)
3. through informal access (section 8 of the GIPA Act)
4. in response to a formal access application (section 9 of the GIPA Act).

6.1 Open access information

Information classified as open access information is government information that we are required to make available under section 6 of the GIPA Act. This information is made available unless there is an overriding public interest against disclosure.

Open access information that we make available is generally via our website or OpenGov NSW, free of charge. This information is generally provided through the following publications:

- OCG Annual Reports

- OCG Strategic Plan
- other documents tabled in Parliament concerning the OCG
- current corporate policy documents
- all current guidelines and directions issued by the Children's Guardian
- register of government contracts and tenders
- our disclosure log (section 6.6 of this guide provides further information about our disclosure log)
- this OCG Agency Information Guide.

You can also contact us on (02) 8219 3600 or by email at legal@ocg.nsw.gov.au, to ask if the information you are after has been released either on this website or in another form. Some publications may only be available on the payment of a fee, but we will let you know if that is the case.

6.2 Proactive release of information

Through our proactive disclosure of government information under section 7 of the GIPA Act, we provide the public access to other government information.

Currently, proactively released information that is available on our website includes:

- Aboriginal Applicants and the WWCC Policy Statement
- Business Ethics Statement
- Code of Ethics and Conduct
- Policies and Procedures
- Organisational Action Plans
- List of Designated agencies accredited by the Children's Guardian to provide statutory out-of-home care or adoption services in NSW
- Key statistics on the NSW Carers Register and Residential Care Workers Register
- The specialised substitute residential care (SSRC) register.

6.3 Informal access

Members of the public can request information from us that is not available on our website. We aim to respond to these requests informally, depending on the information that is requested. However, the OCG may require you to lodge a formal access application, as we cannot be required to disclose information in response to an informal request, and we cannot be required to consider an informal request for information. We cannot informally release government information that we hold if there is an overriding public interest against disclosure of the information.

If we release government information that we hold in response to an informal request, we will make the information available free of charge. We can release government information in response to an informal request subject to any reasonable conditions that we think fit to impose.

An informal request for access to information can be made by contacting our Right to Information Officer – see contact details below at section 6.7.

6.4 Formal access applications

To lodge a formal access application, the application must:

- be in writing and sent by email to legal@ocg.nsw.gov.au or posted to Locked Bag 5100, Strawberry Hills NSW 2012. A GIPA Access Application form for information is available on our website – www.ocg.nsw.gov.au.
- clearly indicate that it is a formal access application made under the GIPA Act
- be accompanied by payment of the application fee of \$30
- state the name of the applicant and a postal or email address as the address for correspondence in connection with the application
- provide such information as is reasonably necessary to enable the government information applied for to be identified.

If you are a legal representative applying on behalf of a client for access to their personal information, the application should be accompanied by written authorisation from your client to handle their GIPA application and also include a certified copy of your client's ID document (for example, driver licence).

An applicant must disclose on their access application whether they have applied to another agency, at any time, for substantially the same information, and if so, they must identify the agency. However, an application will not be invalid if an applicant fails to make this disclosure.

The OCG processes the access application in accordance with the GIPA Act, to decide whether access to the requested information is granted or refused.

Before lodging a formal access application, applicants are encouraged to consider whether the information they are seeking is 'excluded information' as this will impact the validity of the application. This is outlined in summary at section 6.5 of this AIG.

For further assistance, you can contact our Right to Information Officer (section 6.7). However, please be aware that we cannot provide you with legal advice.

6.5 Information sharing under Chapter 16A

Chapter 16A of the *Children and Young Persons (Care and Protection) Act 1998* allows certain agencies, known as prescribed bodies, to exchange information that relates to a child or young person's safety, welfare and wellbeing.

This legislation allows providers to exchange information relating to the safety, welfare or wellbeing of a child or children if it helps them or other 'prescribed bodies' to:

- make any decision assessment or plan or initiate or conduct any investigation or to provide any service, relating to the safety and welfare of the child or children
- manage any risk to the child or children that might arise in the prescribed body's capacity as an employer or designated agency.

Under Chapter 16A, information may be exchanged:

- in writing - by letter, fax or email
- orally over the phone or
- in person.

Where information is exchanged orally, a written record of the information exchange must be made and retained on file. This written record must include details of the person information was exchanged with, the steps taken to confirm their identity, and the person who authorised the release of the information.

6.6 Excluded information

Excluded information is information that relates to a function of an agency specified in Schedule 2 to the GIPA Act. Under Schedule 2, clause 2 to the GIPA Act, information relating to reportable conduct matters under Part 4 of the CG Act (including report handling, investigative and reporting functions) is excluded information. This also includes records formerly kept by the Ombudsman under Part 3A of the *Ombudsman Act 1974*, when the Ombudsman administered the analogous Reportable Conduct Scheme. Upon commencement of the CG Act on 1 March 2020, records kept in relation to Part 3A of the Ombudsman Act were transferred to the OCG.

Under section 43 of the GIPA Act, an access application cannot be made to the OCG for access to the OCG's excluded information, and an application will not be valid to the extent that it seeks access to the excluded information of the OCG.

6.7 Disclosure log

We maintain a disclosure log under section 25 of the GIPA Act which documents the information we release in response to access applications if that information may be of interest to members of the public. Generally, the OCG considers that an access application for personal information about an individual would not be of interest to other members of the public and we will not disclose this information in our disclosure log.

Our disclosure log provides a mechanism to further proactively release information to the public.

A regular review of our disclosure log provides a valuable opportunity to analyse data collected from across the OCG on requests for information and to identify trends and documents that could be released proactively. This allows us to update our AIG to reflect the released information. Increased disclosure of information from our disclosure log allows citizens greater opportunity to participate in our policy formulation and service delivery and identifies trends and documents that could be released proactively.

6.8 Our Right to Information Officer

Our Right to Information Officer can be contacted using the details below:

Right to Information Officer, Office of the Children's Guardian

Post: Locked Bag 5100, Strawberry Hills NSW 2012

Email: legal@ocg.nsw.gov.au

Phone: (02) 8219 3600

Business Hours: Monday to Friday 9am to 5pm (excluding public holidays)

We can be contacted through the National Relay Service (NRS) on 133 677 for anyone with a hearing or speech impairment and through the Translating and Interpreting Service (TIS) on 131 450 for anyone requiring the assistance of an interpreter.

Policy metadata (Table 1)

Category	Description
Status	Final
Date of approval	November 2024
Approver	Children’s Guardian
Directorate	Corporate Services
Policy owner	Director, Corporate Services
Document location	Internal – Objective and Intranet and External – Website
Next review date	November 2025
Superseded document	All previous versions of the OCGs Agency Information Guide
Document Reference	A9154400

Appendices

Nil.

Office of the Children’s Guardian

www.ocg.nsw.gov.au

Switchboard: (02) 8219 3600

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